

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1945 OF 2015

Nitin Ramchandra Shelke .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.P.H.Bhoite, Advocate, for the Applicant
Mr.D.P.Adsule, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 21.03.2016

P.C.

. Heard learned counsel for the Applicant
and the learned APP for the Respondent – State.

2. By this Application, the Applicant seeks
his enlargement on bail in connection with C.R.No.
210 of 2014 registered with the Daund Police
Station, District – Pune(Rural), for the alleged
offence punishable under Section 302 of the Indian
Penal Code.

3. The incident has taken place on 25.06.2014 at about 5.30 a.m.. According to the Complainant, he saw the dead body of Shrikant Suresh Shinde on 25.06.2014 at about 5.30 a.m. and found that he was dead. He has stated that some unknown persons for an unknown reason, had caused the death of Shrikant Shinde, by throwing a stone on the forehead of the deceased.

4. Learned counsel for the Applicant states that the Applicant has been arrested only on suspicion. He submits that according to the prosecution, the Applicant and the deceased were friends and that the Applicant had borrowed a sum of Rs.1,000/- from the deceased. It is further alleged that the deceased was demanding the said amount, as a result of which there was an altercation between the two, in which the Applicant is alleged to have picked up a stone and thrown it on the forehead of the deceased, as a result of

which the deceased succumbed to the injuries.

5. Learned counsel for the Applicant states that there are no eye witnesses in the said case and the prosecution case rests entirely on circumstantial evidence. He submits that the only allegation is recovery of blood stained clothes, at the instance of the Applicant.

6. Learned APP opposes the Bail Application. He submits that the C.A.Report is awaited. He submits that cause of death is shown as "Cardiorespiratory arrest due to haemorrhage shock due to head injury". He submits that the Applicant had motive to cause the death of the deceased.

7. Perused the charge-sheet. Admittedly, the prosecution case rests on circumstantial evidence. Initially, the complaint was lodged as against unknown persons. Thereafter, the Applicant was

arrested. The only material, is recovery of blood stained clothes at the instance of the Applicant. Prima facie, it appears that there is not a single witness, who throws light on the alleged motive. The Applicant has been in custody since his arrest i.e. from 27.06.2014 and till today charge is not framed.

8. Considering the aforesaid, the Application is allowed. The Applicant is enlarged on bail on the following terms & conditions.

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;

(ii) The applicant shall report to the investigating officer of the Daund Police Station, District – Pune(Rural) **on the first Saturday** of every month between **10:00 a.m. to 11:00 a.m.** till the conclusion of the trial;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial;

(vi) The Applicant shall file his undertaking to Clause Nos.(ii) to (v) within two weeks of his release;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. It is made clear that the observations made herein, are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)