

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2042 OF 2015

Chiman Ramji Rathod.

...Applicant.

vs.

The State of Maharashtra.

...Respondent.

Mr.Sandeep Pasbola with Bhavesh Thakkar i/by Rahul Arote for
the Applicant.

Smt. P.P.Shinde, APP. for the State.

CORAM : A.S.GADKARI, J.

DATE : 08th February, 2016

The applicant is seeking bail in CR No.19 of 2015 dated 12.1.2015 registered with D.N. Nagar Police Station, Mumbai under Sections 302, 307,143,144,147,148,149 of the Indian Penal Code read with 37(1)(a) of the Bombay Police Act.

2. The date of incident is 7.1.2015 at about 10.15 p.m. The first information report is lodged by one Wasim Khan. The offence was initially registered under Section 307 of the I.P.C. The name of the deceased is Harun Rafiq Shaikh. After the death of the said victim Harun Shaikh, Section 302 is added to the present crime. The first informant has lodged the report dated 8.1.2015 stating that due to earlier enmity the applicant along with other accused persons named in the said statement assaulted Mr. Harun Rafiq Shaikh with cricket stumps and other weapons. That, the said persons also assaulted the deceased on the neck by sharp edged weapon. It appears from the record that the deceased Harun Shaikh succumbed to the injuries on 14.1.2015 and therefore, Section-302 has been added to the present crime. After completion of the investigation the charge sheet has been filed.

3. Heard the learned counsel for the applicant and the learned APP. I have also perused the entire charge sheet.

4. At the outset, it is to be noted here that, the name of the applicant has not been mentioned by the first informant in the said report. The statement of the witness namely Yellu Pujari dated 17.2.2015 discloses that the deceased had spread a rein of terror in the locality. That, on 7.1.2015, when the said witness was returning from his job deceased Harun Shaikh obstructed his way and forcibly took out Rs.5600/- from his pocket. The said incident was observed by the co-accused Rahul Bendry and he gave a call to the other accused persons. The accused persons thereafter assaulted the deceased Harun Shaikh with fist and kick blows, cricket stumps and other weapons. The cause of death as has been given by the Medical Officer is A death due to severe trauma on head causing Head Injury with Intraoranal haemorrhagewith fracture skull with ploy trauma with part edema with sudden Cardio respiratory arrest.

5. The prosecution has attributed the applicant with the role of hitting on head with a weapon cricket stump. The learned APP pointed out that there is an injury on the head of the deceased and also there was fracture to the skull. It is to be noted here that the date of incident is 7.1.2015 and the statement of alleged eye witnesses have been recorded by the Investigating officer on 13.1.2015. It appears that the said witnesses are residents of the said area and they are eye witnesses to the incident. Their statements are recorded admittedly after the period of 6-days from the date of incident. The learned APP submitted that at the instance of the applicant cricket stump has been recovered having blood stains. However, till date the Investigating officer did not get the Chemical

Analyzer's report.

6. In view of the above, the applicant has made out a case for his release on bail. Hence, the following order.

ORDER

- a) The applicant be released on bail in CR No.19/2015 registered with D.N.Nagar Police Station Mumbai on his furnishing PR bond of Rs.25,000/-with one or two solvent sureties in the like amount.
- b) After his release from Jail the applicant shall attend the Investigating Officer on every 1st and 3rd Monday of every month between 11.00 a.m. to 2.00p.m,
- c) The applicant shall also attend all the dates of the Trial Court.
- d) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- e) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)