

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

CRIMINAL BAIL APPLICATION NO. 2045 OF 2015

Sachin Dattatraya Nakhate ..Applicant

v/s.

The State of Maharashtra. ..Respondents

Mr. M.B.Zanwar for the Applicant

Mr. Arfan Sait, APP for the Respondent-State.

API Mr.P.M.Katane, Swargate Police Station, Pune City is present.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : FEBRUARY 08, 2016.**

P.C.

1. This is an application for bail filed by the aforesaid applicant who is facing trial in Sessions Case No. 479 of 2015 pending on the file of the Addl. Sessions Judge, Pune for the offences under Section 302, 201 r/w. 34 of the Indian Penal Code.

2. The case of the prosecution in brief is that on 12.4.2015 at about 8.30 a.m., the applicant along with co-accused had inflicted injuries on one Vinayak Rao and thereby caused his death.

3. Heard Mr. Zanwar , the learned Counsel for the applicant. He has submitted that the allegations leveled against the applicant do not constitute an offence under Section 302 of IPC. He has further submitted that the incident had occurred at the spur of moment and that the applicant had no intention of causing death. He has therefore claimed that there is no prima facie material to show the involvement of the applicant in commission of the crime under Section 302 of IPC. He has further submitted that the applicant has two minor children and considering this aspect he be released on bail.

4. The learned APP submits that there is prima facie material to show the involvement of the applicant in committing the said crime. He has further submitted that the statements of the witnesses coupled with the post mortem report prima facie reveals that the applicant had inflicted several blows on the head of the deceased and hence according to the learned APP there is prima facie material to show the involvement of the applicant in commission of the offence under Section 302 of IPC which is a serious crime.

5. I have perused the records and considered the submissions

advanced by the learned counsel for the applicant and the learned APP for the State. The statement of one Pravin Tavare prima facie reveals that on 12.4.2015 between 8.00 to 8.15 a.m. he heard some persons fighting on the road. He had further stated that he had seen one of the co-accused Shankar Satte assaulting deceased Vinayak Rao, with blows. He has further stated that Hema Satte, the co-accused had called the applicant, and that the applicant had picked up a stick which was lying on the road and inflicted blow on said Vinayak Rao. As a result of the same Vinayak sustained head injury and fell on the road.

6. The statements of the other eye witnesses also prima facie indicates that they had seen the incident of assault. Though these witnesses had not named the applicant in the statement under Section 161 of Cr.P.C., they had identified the applicant as assailant in the identification parade. The material on record therefore prima facie reveals that the applicant inflicted several blows on the head of Vinayak. The post-mortem report also reveals that the deceased had sustained several internal and external head injuries. Hence, prima facie I am unable to accept the contention of the applicant that

the applicant had no knowledge that the said injury would cause death of the deceased. The offence is of serious nature the trial has not yet commenced. The eye witnesses are from the same locality. Releasing the applicant on bail at this stage would thwart the course of justice. Hence the applicant is not entitled for bail. His application is dismissed.

7. Needless to state that the observations made in this order are not expressions on the merits of the case and are only prima facie observations.

(ANUJA PRABHUDESSAI, J.)