

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2180 OF 2016

Maruti Sitaram Badhale

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Shailendra Pendse i/b Ms. Neha M. Patil Advocate for Applicant.
Mr. Rajan Salvi APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 23rd NOVEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of the Code of Criminal Procedure, 1973. Applicant herein is arrested on 28/01/2016 in crime no. 7 of 2016 registered at Talegaon MIDC Police Station for offence punishable under section 302 of the Indian Penal Code. Investigation is completed and charge-sheet is filed on 21/04/2016.

2) It is the case of the prosecution that on 27/01/2016 Baban Bavale who happens to be brother of the present applicant lodged a report at the police station alleging therein that on 26/01/2016, at about 8.30 p.m., he was having dinner along with his wife and son. His son Santosh had called upon Maruti

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on his cellphone and asked him to transfer the open space between their houses in their favour. Being enraged by such unlawful demand, applicant is alleged to have called Santosh in the open court yard and assaulted him on his head with the butt end of the axe due to which Santosh collapsed on the ground he was taken to Sevadham Hospital where he was declared dead.

3) The learned counsel for the applicant submits that first informant had given a distorted version of the incident and according to the learned counsel, Santosh had come out of the house armed with an axe. There was an altercation in which Santosh sustained an injury and succumbed to the same. It is also submitted that the applicant had no intention to cause homicidal death of Santosh as he had not assaulted him with sharp edged side of the axe, but had assaulted with the butt end of the axe. It is also submitted that there were civil disputes between both the families and that the applicant is falsely implicated.

4) There are eye witnesses to the incident who have categorically stated that they had seen the present applicant assaulting Santosh in the court yard. The post-mortem notes would reveal that deceased Santosh had sustained Heamatoma in post auricular region left side of scalp 3 X 3 Cm. There were

injuries to head : Haematoma in post auricular region left side of scalp 3 X 3 Cm. Injury to skull: Fracture of left mastoid bone in post auricular region extending along wings upwards 4 Cm. Injury to Brain: Subdural hematoma in left temporal region generalized cerebral oedema, meninges congested.

5) The impact of the injury was such that a young boy aged about 20 years had died an instantaneous death. It is the case of direct evidence. The intention and knowledge can be inferred only after recording of substantive evidence. There is sufficient material against the applicant. Hence, applicant does not deserve to be enlarged on bail. However, it is made clear that observations made herein above are prima facie in nature and restricted to an application under section 439 of Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

6) Application stands rejected.

(SMT. SADHANA S. JADHAV, J.)