

*Ladda*FARAD CONTINUATION SHEET No.IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2141 OF 2015

Santosh Trimbak Pakhre Vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr Sushrut Jadhwar for the applicant.
Ms Rutuja Ambekar, APP for the State.

CORAM : A.S.GADKARI, J.
DATE : 1st February, 2016

P.C.

1) The applicant is seeking bail in CR No. 134/2015, dated 23/05/2015 registered with Shivaji Park Police Station under sections 326, 302, 323, 324, 143, 144, 146, 147, 148, read with section 149 of the IPC. The FIR dated 23.5.2015 was lodged by the victim Master Amir Jalil Ahmed Khan, aged about 17 years.

That the said victim was arrested under section 379 of the IPC by Powai Police on 20.4.2015. He was produced before the Juvenile Court, Umarchadi Dongri, Mumbai and said Court had directed that the said victim Amir Khan be lodged at David Sassoon Industrial School, Matunga, Mumbai for observation on 24.4.2015. That one another juvenile in conflict in law by name Karim was also lodged at the said observation centre. That one Anna, a juvenile in conflict with law was also

there. The said Karim had a fight with the said Anna. The victim Amir did not help Karim at the time of said fight. The victim Amir in his statement has further stated that as he did not help or support the said juvenile Karim against the said Anna between 3:00 a.m. to 7.00 a.m. on 18.5.2015 said Karim along with servant in the said observation room namely Mama (applicant) assaulted the victim by means of a bat and a wooden log. He was mercilessly assaulted on his stomach, chest, both the hands, legs, back and buttocks. The said two persons also forced the victim to consume 'Bhang' (a psychotropic substance). That because of consumption of 'Bhang' the victim did not realise pains. The victim was produced before the Juvenile Justice Court, Dongari on 20.5.2015 when he was released on bail in CR No. 167/2015 registered with Powai Police Station. On 21.5.2015 the victim started feeling uneasiness and pains in his body. His father thereafter took him to Rajawadi hospital Ghatkopar, Mumbai. On 23.5.2015 the victim started feeling more uneasiness and therefore the doctors at Rajawadi Hospital admitted the victim in ICU ward. It is the prosecution case that the said victim Amir expired on 28.5.2015 while taking treatment. Initially offence under section 326 read with section 34 of the IPC was lodged by the police.

2) After the death of Master Amir, section 302 of the IPC has been added to the said crime. During the course of investigation, the police received the final cause of death certificate wherein the cause of death is

stated to be “shock due to complication of multiple injuries with pulmonary hemorrhage and pulmonary oedema with cerebral oedema with cloudy change in tubules of kidney (unnatural)”. After completion of investigation the police have filed the charge sheet.

3) In the present case, the victim, aged about 17 years, was lodged in the David Sassoon Industrial School, Matunga, (an observation home run by the Government) as a juvenile in conflict in law. The applicant was also lodged there for undergoing the sentence. The accused by name Karim and the applicant with intention to kill, assaulted the deceased on 18.5.2015 between 3:00 a.m. to 7:00 a.m. The postmortem notes annexed to the charge-sheet discloses that there were about 21 external injuries caused to the deceased with corresponding internal injuries. The statement of Jamil Ahmed Khan, the father of the victim Amir further discloses that when he went to meet his son at David Sassoon Observation School, his son had pointed out the applicant as Mama and informed his father that the present applicant was not only causing harassment but was also torturing the children from the said observation school for bringing drugs like Charas, Ganja, etc. There are statements of eye-witnesses who had witnessed the incident of assault in intervening period on 18.5.2015. Said witnesses have specifically attributed role of assault to the deceased, by the applicant. The applicant has been identified as the said 'Mama'. The statement of the victim given to the police on 23.5.2015 according to

me is his dying declaration, wherein a specific role has been attributed to the applicant.

4) As per prosecution the applicant is also involved in other crimes. After taking into consideration the evidence available on record, showing the complicity of the Applicant, the gravity of the offence and the antecedents at the discredit of the applicant, I am of the opinion that this is not a fit case to release the applicant on bail. Application is accordingly dismissed.

5) It is needless to mention that the aforesaid observations are in context with the decision of the present application and the Trial Court may not get influenced by it at the time of conducting trial.

(A.S. GADKARI, J.)