

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

CRIMINAL BAIL APPLICATION NO. 2172 OF 2015

Sudhir @ Haddi Mansingh Jedhe ..Applicant

v/s.

The State of Maharashtra. ..Respondents

Mr. Priyal G. Sarda for the Applicant

Mr. J.H.Ramugade, APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : JANUARY 06, 2016.**

P.C.

1. This is an application for bail filed by the aforesaid applicant who is facing trial in Sessions Case NO.397 of 2015 pending on the file of Addl. Sessions Judge, Pune. The said case arises out of C.R.No.167 of 2015 registered with Pimpri Police Station for the offence undder Section 143, 147, 148, 302 r/w. 149 of IPC and Section 37(i), 135 of B.PAct and Section 4, 25 of Arms Act.

2. The case of the prosecution in brief is that on 13.3.2015 during

late night hours some unknown persons had assaulted Mahesh Kamble and had thereby caused his death. The parents of the deceased had suspected that the applicant herein was involved in the crime. Based on the said supplementary statement, the applicant was arrested. Upon completion of investigation, chargesheet was filed and the case was committed to the Sessions Court, Pune. The applicant had filed application for bail before the Sessions Judge, which was rejected vide order dated 5.9.2015. Hence the present application.

3. Shri Sarda, learned Counsel for the applicant submits that there is neither direct nor circumstantial evidence to link the applicant with the said crime. He further submitted that the applicant is in custody since 13.3.2015 without there being any prima facie material to show the involvement of the applicant in the said crime. He therefore claims that the applicant is entitled to be released on bail.

4. The learned APP submits that the supplementary statement of the parents of the deceased prima facie show involvement of the

applicant in the aforesaid crime. The offence if of serious nature and hence the applicant is not entitled to be released on bail.

5. I have perused the record and considered the submissions advanced by the learned Counsel for the applicant and the learned APP for the State.

6. The record prima facie reveals that Shri Tuljaram Yamanappa Kamble lodged the FIR dated 13.3.2015 alleging that on the same night at about 3 a.m. one Nithin Shinde had informed him that his son Mahesh was assaulted by someone and he was lying in unconscious state near the garage of Mahendra company. The complainant proceeded to the scene of offence and found that his son Mahesh was lying in pool of blood in front of the said garage. He was taken to YCM hospital and was declared dead.

7. The statement of the complainant does not indicate that he had witnessed the incident. His supplementary statement was recorded on 14.3.2015 wherein he had stated that on 12.3.2015 at about

11.00 a.m. his son Mahesh and his friend Deepak and Sudhir Jedhe had snatched one mobile phone and cash from one person near Mahendra Company and that they had assaulted the said person. The said stolen mobile and cash was with Mahesh and that he had not given any money to his friend Sudhir Jedha i.e. the applicant and the other associates. He suspected that the applicant and the other persons involved in snatching the mobile and had committed murder of his son. Similar statements are made by the other family members of the deceased.

8. It is to be noted that neither the complainant nor the family members had witnessed the incident. They have implicated the applicant only on the basis of suspicion. Needless to state that mere suspicion cannot be a ground to detain the applicant behind bars. There is no other prima facie material, either direct or indirect to indicate that the applicant herein was involved in assaulting Mahesh.

9. Under the circumstances, the applicant is granted on the following terms and conditions:

- i) The applicant be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty-five Thousand Only) with one solvent surety in the like amount to the satisfaction of the learned Addl. Sessions Judge, Pune.
- ii) The applicant shall not interfere with the complainant or the family members of the complainant or any other witnesses in any manner.
- iii) The applicant shall appear before the Sessions Court on each and every date of hearing, or as and when directed by the Sessions Court.

(ANUJA PRABHUDESSAI, J.)