

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.348 OF 2017

Pankaj Sita Rai @ Patel	Applicant
versus	
The State of Maharashtra	Respondent

Smt.Namarata Bobade for Applicant.
Mr.M.G.Patil, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 05th June 2017

PC :

1. Heard learned advocate for the Applicant and learned APP for the State. The Applicant is seeking bail in connection with the offences registered with CR No.I-202/2015 registered with Narpoli Police Station, Bhivandi for offences punishable under Sections 302, 201 read with Section 34 of Indian Penal Code.

2. The prosecution case is that the deceased was assaulted by the Applicant and the co-accused on 17th May 2015 on account of the fact that he committed theft in the house of the accused. There are witnesses who have referred to the said incident of assault. The complainant has tried to intervene in the incident, but the accused kept on assaulting the deceased. On the next day i.e. on 18th May 2015, the complainant learnt that the deceased was lying dead in the nearby vicinity. Hence, a complaint was lodged and aforesaid first information report came to be registered.

3. Learned advocate for the Applicant submitted that although there is an evidence of assault on the deceased in respect to the first incident, there is no evidence to corroborate the fact that the Applicant and the co-accused had assaulted the deceased, which had resulted into his death. She submitted that there are no witnesses in connection with the incident which has resulted in death of the deceased. She further submitted that taking into consideration the nature of the injuries sustained by the deceased, the offence does not fall under Section 302 of Indian Penal Code. She also submitted that the Sessions Court has expedited the trial, but in spite of that, it has not commenced.

4. Learned APP submitted that there is cogent evidence which involves the Applicant in the said crime. There are several witnesses including the complainant who have seen the Applicant and co-accused assaulting the deceased in the incident dated 17th May 2015. Thereafter immediately in the same night, the deceased was found dead. He submitted that although there may not be any direct evidence in the form of witnesses referring to the further assault, however, the fact that the Applicant and the co-accused were involved in the initial assault on the deceased, shows the involvement of Applicant-accused in the said crime. He further submitted that there is recovery of wooden log at the instance of Applicant. He submitted that the nature of injuries recorded in the post mortem report indicate that the injuries must have been caused by use of wooden log.

5. Taking into consideration the evidence against the Accused, I am not inclined to grant bail to the Applicant. The application is rejected. Trial is expedited. It is made clear that these observations are made only for the purposes of considering this application for bail.

(PRAKASH D. NAIK, J.)

MST