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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 366 OF 2017

Sachin Vitthal Sheregar

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Mr. M.K. Kocharekar a/w Jagdish Kumar Sanjeev Hegde for applicant.

Mr. Arfan Sait APP for State.

Mr. S.S. Avhad, P.I., Thanenagar Police Station present.

CORAM: A.S. GADKARI, J.

DATE : 18th April 2017.

P.C.

1] This is an application under Section 439 of Cr. P.C. for bail in CR No.I-141 of 2016 dated 21.08..2016 registered with Thane Nagar Police Station, Thane under Sections 302, 342 read with 34 of the Indian Penal Code.

2] Heard the learned Counsel for the applicant and the learned APP. I have perused the record annexed to the application.

3] The first information report is lodged by Mangesh D. Kad. It is the prosecution case that the applicant, deceased Ashok and other co-accused were sleeping in hotel namely “Eat-N-Sip” situated at Ghodbunder Road, Thane. That at about 4.00 a.m. on 20.8.2016, the another inhabitant of the said room namely Aslam Khan got up from sleep and found that his mobile phone was missing from the spot. He also noticed that the mobile phones of other persons namely Tapan and Munna were also missing. He found that deceased Ashok was not present at the spot. Therefore the co-accused Tapan and Munna tried to search Ashok. They found Ashok near Thane railway station. That they initially brought Ashok at the said hotel and after brining Ashok at the said hotel, they thrashed Ashok with sticks and rubber pipes. It is alleged that the co-accused Tapan assaulted Ashok with iron pipe. That after Ashok become unconscious, the applicant and co-accused took him to the hospital where he was declared dead prior to admission.

4] The record reveals that the report was initially lodged as accidental death under Section 174 of Cr. P.C. During the course of investigation of the said accidental death report, it was revealed that the present applicant along with other co-accused mercilessly assaulted the

deceased Ashok with the said weapons and due to which death of Ashok occurred. The witness Aslam Khan in his statement in the accidental death report enquiry under Section 174 of Cr P.C. did not attribute any significant role to the applicant. However, in his statement after lodgment of the present crime has stated that when he returned from toilet, he saw applicant and other co-accused beating deceased Ashok with sticks and rubber and iron pipes and thereafter accused persons made Ashok to sleep on the bench of the hotel. That there are two witnesses namely Smt. Sumitra Jaiswal and Ajay Kanojia who have stated that when they heard commotion from the hotel and asked the applicant about it, the applicant informed them that as Ashok had stolen their mobile phones, they were thrashing him with a view to punish him. The medical report mentions that death of Ashok is “due to shock due to ploy-trauma with alcoholic intoxication”.

5] After analyzing the evidence available on record, prima facie it appears that the applicant and co-accused did not had intention to commit murder of deceased Ashok. It appears that from the statement of two witnesses that with a view to teach a lesson to Ashok, the applicant and He s other co-accused beat Ashok and when Ashok became unconscious, they took him to the hospital. In view thereof, the applicant has made out a case for his release on bail.

Hence, the following Order:

(i) The applicant be released on bail in CR I-141 of 2016 registered with Thanenagar Police Station, Thane, on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

(ii) After his release from the jail, the applicant shall attend the Thanenagar Police Station, on every first Monday of the month between 11.00 a.m. to 2.00 p.m.

(iii) The applicant shall attend all the dates before the Trial Court.

(iv) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

6] The Application is allowed in the aforesaid terms.

(A.S. GADKARI,J.)