

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 757 OF 2017

Amit Prafulla Sadankar

..Applicant

Vs.

The State of Maharashtra

..Respondent

Mr. Aniket Nikam i/b Mr. Aashish Satpute, for the Applicant.

Mr. A. P. Palkar, APP, for the Respondent.

CORAM :- **T. V. NALAWADE, J.**

DATE :- **AUGUST 23, 2017.**

P. C.:

The application is filed for bail in C. R. No.197 of 2016 registered in Dattawadi Police Station, Pune for the offences punishable under Sections 302, 201 etc of the Indian Penal Code and it can be said that the offence of attempt of robbery can also be added in the case. Both sides are heard. The papers of investigation were made available for perusal of this Court. The chargesheet is filed.

2 The material collected against the present Applicant shows that the incident in question took place in the night between

19th May, 2016 and 20th May, 2016. On that night, the Applicant was in the company of one Pratik Hake. They wanted money for making payment for beer. The deceased was an ex-army man and he was not known to the present Applicant and Pratik. In spite of that, they virtually tried to rob him by asking him to give money. They snatched and took away ATM card of the deceased and they wanted to collect money by using the ATM card. The deceased first refused to give the number and then he gave the number. The allegations are made that the witness Avinash was asked to collect the money by using ATM card. They tried to use the ATM card but the number given by the deceased was found to be incorrect and so they could not collect the money. When witness returned and informed accordingly to Pratik, assault was made by Pratik by using sharp weapon. The allegations are made against the present Applicant that he also took part in the assault. The spot was left when said person was dead. Threats were given to the witnesses and they were warned not to disclose the incident to anybody. These persons had poured petrol on the face of the deceased and had set fire to it to see that his face is destroyed and nobody is in position to identify him.

3 The report was given by the Police Officer after seeing

the dead body and investigation was started.

4 The P. M. report shows that as many as 26 injuries were found on the dead body. The number of injuries found on the dead body creates probability of involvement of more than one assailant. The death took place due to these injuries.

5 There are statements of eye witnesses who include Avinash who had tried to collect money by using ATM card. The weapon was recovered on the basis of the statement given by present Applicant under Section 27 of the Evidence Act and blood found on the weapon. The learned counsel for the Applicant submitted that no Test Identification Parade was held to give an opportunity to Avinash to identify the present Applicant. The record shows that after the arrest of the Applicant statement of Avinash was recorded and photograph of Applicant was shown to Avinash and on that basis Avinash identified the present Applicant. Whether Avinash can be believed or not will depend on the evidence which he will give in the Court and that is the matter of appreciation of evidence which is to be done by the Court during trial. Further, as per the submissions made by the learned APP and record like the certificate issued by Vaibhav that in CCTV

some part of the incident was recorded showing that the present Applicant was in the company of deceased Sanjay. Sanjay was not known to the present Applicant and due to that this circumstance will be also relevant.

6 The learned counsel for the Applicant submitted that considering the probability that Pratik had intention, bail can be granted to the Applicant. This submission is not acceptable. The motive, reason of the incident shows that they acted cold-bloodedly even when deceased was not known to them. Only to extract money from him, they finished him and they tried to destroy the face by setting fire on his face. This circumstance shows that they can go to any extent. If the Applicant is released on bail, there will be danger to the life of the eye witness. This Court holds that it is not possible to use discretion in favour of the Applicant. In the result, the application is rejected. The observations are for the purpose of present proceedings only.

(T.V.NALAWADE, J.)