

Anand

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

BAIL APPLICATION NO.1002 OF 2017

Mudassar Shabbir Pirjade

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr.P.G.Sarda, Advocate, for the Applicant

Mrs.S.S.Kaushik, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 26.07.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.677 of 2016 registered with the Yerwada Police Station, Pune, for the alleged offences punishable under Sections 302, 143, 144, 147, 148, 149, 323, 504, 506(1) of the Indian Penal Code and under Sections 37(1), 135 of the Bombay Police Act.

3. Learned counsel for the Applicant submits that the Applicant (Original Accused No.6) is alleged to have assaulted the deceased – Kalim Ansari with fist and kick blows. He submits that the

Applicant is aged 19 years and is in custody since 29.08.2016. He submits that investigation is complete and charge-sheet is filed..

4. Learned APP has tendered the Post-Mortem report. The said Post-Mortem report is not a part of the charge-sheet. The cause of death mentioned in the Post-Mortem report is as under :-

“Opinion reserved viscera preserved for chemical analysis and histopathological examination”

In the histopathological report, final cause of death is stated to be “subarachnoid haemorrhage with alcohol consumption”

5. Perused the papers. On 27.08.2016 at about 8.15 p.m., there was a quarrel between the Complainant – Faim Ansari (younger brother of the deceased) and Saddam Sayyed (Accused No.1). In the said quarrel, Kalim Ansari(deceased) intervened, after which the Accused No.1 Saddam and his father (Accused No.2) abused and assaulted them. Accordingly, Kalim lodged an NC as against Saddam and Nabi (Original Accused Nos.1 & 2). On the very same day, at about 11.00 p.m., the Accused Nos.1 &2 alongwith other Accused came to the spot and assaulted the Complainant and Kalim(deceased). It is alleged that the Accused No.1 – Saddam was holding a stick in his hand and

that he assaulted (deceased) Kalim and that the other Accused persons also assaulted the Complainant and Kalim with fist and kick blows. During treatment, Kalim expired. The allegation as against the Applicant is, that he assaulted the Complainant and his brother with fist and kick blows. A perusal of the Post-Mortem report, in particular Column No.17 shows, that Kalim had received two abrasions i. e. one abrasion over left side of chest and one abrasion over left leg. As the cause of death could not be opined, viscera was preserved for chemical analysis. The histopathological examination report shows final cause of death as under :-

“subarachnoid haemorrhage with alcohol consumption”.

Investigation is complete and charge-sheet is filed.

6. Considering the aforesaid and the role of the Applicant, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions:-

ORDER

- (i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs.20,000/-** with one or two sureties in the like amount;
- (ii) The Applicant shall report to the investigating officer of the concerned police station on the **1st Monday of every month** between

10.00 a.m. to 11.00 a.m. for a period of one year from the date of his release;

(iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)