

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1216 OF 2017

SARFRAJ SAIFUDDIN ANSARI)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Ramesh Jadhav, Advocate for the Applicant.

Ms.Veera Shinde, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 27th NOVEMBER 2017

P.C. :

1 The applicant/accused in Crime No.911 of 2016, registered with Police Station Dindoshi, for offences punishable under Sections 302, 307, 326A, 326B read with Section 34 of the Indian Penal Code (IPC), by this application is seeking his release on bail during pendency of the trial.

2 Heard the learned advocate appearing for the
2 applicant/accused. He pointed out remand reports as well as the

charge-sheet and statements of the deceased as well as victim of the crime in question. With the aid of these documents, the learned advocate argued that initially the Investigator had arrested Ashfaque and Sabira in the crime in question. In the remand report, the police has stated that both those accused have confessed the crime. Then, by pointing out supplementary statement of the deceased, the learned advocate argued that though this statement was recorded after arrest of the present applicant/accused, the deceased had not stated anything against him. The learned advocate further argued that, undisputedly, the applicant/accused was also working in the bangle manufacturing establishment, and therefore, no overbearing importance can be given to the injury found on his person caused by the acid.

3 The learned APP opposed the application by pointing out circumstantial evidence against the present applicant/accused connecting him to the crime in question.

4 I have carefully considered the rival submissions and also perused the charge-sheet.

5 The incident in question took place on 29th November 2016. Chandan Thakur Singh and his family was sleeping inside his house, in the night intervening 28th November 2016 and 29th November 2016. At about 2.00 a.m. of that night, Chandan Thakur Singh as well as his wife felt burning sensation, and therefore, they woke up to find that they have sustained burns due to acid. They could not find anybody in the vicinity.

6 Statement of Chandan Thakur Singh was considered as First Information Report (FIR). He pointed out finger of suspicion on his employer Ashfaq and co-employee Sabira. Therefore, initially, these two persons were arrested. During the course of investigation, the Investigator arrested the present applicant/accused.

7 Case of the prosecution against the present applicant/accused is to the effect that the present applicant/accused was having illicit relations with wife of Chandan Thakur Singh. Chandan Thakur Singh was quitting the employment with

Ashfaque and was intending to move to his native place. Therefore, in order to eliminate him, the present applicant/accused, according to the prosecution case, doused Chandan Thakur Singh with acid in order to commit his murder.

8 Case of the prosecution is entirely based on circumstantial evidence, and therefore, what has been stated by Chandan Thakur Singh and his wife, is of no consequence. During the course of taking medical treatment, Chandan Thakur Singh succumbed to injury on 15th December 2016.

9 The applicant/accused came to be arrested on 4th December 2016. At that time, he was found to be having burn injuries on his person. He was taken to the Police hospital Nagpada where he had given history to the Medical Officer. His history recorded in the medical certificate issued by the Medical Officer discloses confession made by the applicant/accused to the Medical Officer. The applicant/accused is stated to have confessed to the Medical Officer that he had poured acid on the deceased

from the window of the house of the deceased. The applicant/accused was found to be having burn wounds in healing phase caused by acid. The opinion of the Medical Officer shows that age of injury is consistent with the history given by the applicant/accused. On the basis of disclosure statement given by the present applicant/accused, the prosecution has recovered a can of plastic having smell of acid as well as half burnt bottle of the cold drink smelling acid. The banyan as well as full pant having burn marks of acid are also recovered at the instance of the present applicant/accused.

10 Statement of Dharmaraj Prajapati shows that the present applicant/accused left his Company at 11.00 p.m. of 28th November 2016. Supplementary statement of the deceased i.e. dying declaration of the deceased also shows that, thereafter, the present applicant/accused had been to his house and then left his house. Statement of Imtiyaz Ansari i.e. brother of the present applicant/accused as well as statement of Abubakar Ansari shows that the present applicant/accused was having knowledge of the

incident happened at the workplace of the deceased on the date of the incident.

11 Considering the nature of circumstantial evidence against the present applicant/accused, no case for bail is made out. Therefore, the order :

ORDER

The application is rejected.

(A. M. BADAR, J.)