

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1445 OF 2017

Nitesh Raosaheb More

Applicant

versus

The State of Maharashtra

Respondent

Mr.Prakash Wagh for Applicant.

Mr.V.V.Gangurde, APP, for State.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 13th July 2017

PC :

1. This is an application for bail in connection with CR No.67 of 2016 registered with Chembur Police Station. The first information report was registered on 20th February 2016 for offences under Sections 302, 141, 142, 143, 146, 147, 149, 323 and 504 of Indian Penal Code.

2. The Applicant was arrested on 20th February 2016. On completing the investigation, charge sheet has been filed. The prosecution case is that a quarrel took place between Harishchandra and one of the accused. Thereafter accused namely Sumit called other persons and all of them assaulted the deceased. It is alleged that the Applicant and others gave fist and kick blows to the deceased. In the FIR it is also alleged that the co-accused Sumit had lifted the deceased and threw him on the ground. The provisional cause of death was mentioned as head injury with injury to liver.

3. The Applicant has preferred an application for bail in this Court on the earlier occasion which was withdrawn on 28th April

2017. It appears that the application was not argued on merits. Thereafter the Applicant preferred an application for bail before the Sessions Court which was rejected.

4. Learned advocate for Applicant submitted that taking the prosecution case as it is, there does not appear to be any intention to commit murder and offence under Section 302 is not made out. It is further submitted that there is improvement in the statement of witnesses wherein it is stated that the Applicant and the co-accused had left the injured person after he was assaulted and he was thrown on ground which has resulted in injury. It is submitted that the FIR had not attributed any such role to the Applicant. In the FIR it is stated that Applicant and others had assaulted the deceased with fist and kick blows.

5. Learned APP submitted that the incident had occurred on account of trivial quarrel. The co-accused had called other persons who assaulted the deceased which has resulted in his death.

6. Perused the charge sheet. Role that has been attributed to the Applicant is to giving fist and kick blows to the deceased. Prima facie, it appears that there was no intention to commit murder. The Applicant is in custody from the date of arrest. Investigation is complete and charge sheet has been filed. There are no criminal antecedents against the Applicant. The Applicant is young boy of 22 years and had completed graduation recently. Considering the nature of allegations and the overt act attributed to the Applicant, bail can be granted to the Applicant.

7. Hence, I pass following order :

ORDER

- (i) Bail Application No.1445 of 2017 is allowed;
- (ii) The Applicant is directed to be released on bail in connection with CR No.67 of 2016 registered with Chembur Police Station, Mumbai, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The Applicant is directed to report Chembur Police Station once in a fortnight on Saturday between 11.00 a.m. and 1.00 p.m. till further orders;
- (iv) The Applicant should not tamper with the evidence and witnesses;
- (v) The Applicant shall furnish his residential address and mobile phone number to the investigating officer of Chembur Police Station;
- (vi) It is clarified that observations made in this order are only for considering this application for bail;
- (vii) The application is disposed of.

(PRAKASH D. NAIK, J.)

MST