

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2523 OF 2016

Vilas Kantilal Rathod

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Ms. Mitali Shinde i/b Mr. Ramprasad Advocate for Applicant.

Ms. Veera Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 8th MARCH, 2017.

PC :

1) Heard. This is an application under section 439 of the Code of Criminal Procedure, 1973. Applicant herein is arrested on 25/12/2013 in crime no. 589 of 2013 registered at Nagpada Police Station for offence punishable under section 302 r/w 34 of the Indian Penal Code. Investigation is completed and charge-sheet is filed on 19/03/2014.

2) It is the case of the prosecution that on 22/12/2013, one Rajesh Mishra rushed to Nagpada Police Station and lodged a report alleging therein that on

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21/12/2013, at about 10.30 he was proceeding towards Kundan grocery shop. He suddenly heard loud cries calling for help. He rushed in the direction of the cries and there he saw that Krishna Chavan, residing in room no. 3 of the said chawl, was being assaulted by present applicant, Ashish Vergis @ Surya, Niki Jha and one unknown person with deadly weapons. He had in fact seen the present applicant assaulting Krishna with a large knife on his head and other parts of the body. Similarly co-accused were also assaulting the victim. Informant had called upon his friend Markandey Mishra and requested him to inform about the said incident to the brother of the victim. Thereafter, the victim was taken to the hospital where he was declared dead.

3) Perused papers of investigation. The injured had sustained as many 28 stab injuries, incised wounds. Deceased Krishna was brutally assaulted by the applicant and the co-accused. This is a case of direct evidence. Complainant happens to be an eye witness.

4) Learned counsel for the applicant submits that in all probabilities the complainant was not an eye witness at all and that he is a got up witness.

5) The same can be substantiated at the time of trial after the first informant is confronted with his statement. There is more than sufficient incriminating material against the applicant. At this stage, applicant does not deserve to be enlarged on bail.

6) Application stands rejected.

(SMT. SADHANA S. JADHAV, J.)