

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 100 OF 2018***

Amol Ashok Gosavi	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Jaydeep D. Mane, for the applicant.
Mr. S.R. Agarkar, APP, for the State.

***CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 18th January, 2018.***

P.C. :

1. Heard. This is an application under Section 438 of Cr.P.C. The applicant is apprehending his arrest in C.R. No. 490 of 2017 registered at Vijapur Naka Police Station for the offences punishable under Sections 302, 323 read with Section 34 of the Indian Penal Code.
2. It is the case of the prosecution that on 19th August, 2017, the complainant, Balvant Shankarrao Yadav lodged a report at the police station alleging therein that Yashwant Yadav happens to be his brother. He had constructed one house at Rubi Nagar, Solapur. On 19th August, 2017, both the brothers were cleaning the premises near their house by using JCB.

They had uprooted the garbage bin, which was in front of their house and had placed it in front of neighbour's house. At that point of time, the present applicant and Amol had raised a quarrel with Yashwant Yadav and thereafter assaulted him with fist and kick blows. Yashwant Yadav had fallen down and thereafter he was shifted to Ashwini Hospital at Solapur and on admission, he was declared dead. Balwant Yadav lodged a report on the basis of which Crime No.490 of 2017 is registered against the applicant and his brother for the offence punishable under sections 302, 323 read with Section 34 of the Indian Penal Code.

3. perused the papers of investigation, more particularly, post-mortem notes, which clearly indicate that there was no external injuries on the person of the deceased. The cause of death is shown as 'coronary artery insufficiency'. Column No.20 of the post-mortem notes shows "No abnormal collection. Wt-300 gm. Atherosclerotic changes seen in left anterior descending artery and right coronary artery with approximately 40% block each, 2.5 cm. from its origin, gritty on cut section. Additional remarks Nil".

4. The role attributed to the present applicant that the present applicant had slapped the complainant since the complainant was

attempting to intervene the quarrel. It is specifically alleged that the brother of the complainant had fallen on the ground. Soon thereafter, he was taken to Ashwini Hospital where he was declared dead.

5. The learned counsel for the applicant submits that in fact, the brother of the applicant i.e. Ambarish was arrested and has been enlarged on bail by this Court vide order dated 8.1.2018. In the facts of the case, this Court is of the opinion that custodial interrogation of the applicant would not be imperative. Hence, the applicant deserves to be granted pre-arrest bail upon imposing certain conditions.

6 However, it is made clear that the observations are restricted to an application under section 438 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.
- (iii) The applicant shall report to the concerned police station every

alternative day i.e. commencing from 22.1.2018 to 22.2.2018.

Application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)