

NSC.

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

CRIMINAL BAIL APPLICATION NO.233 OF 2018

Dilavar Mansurali Khan	...Applicant
Versus	
The Senior Inspector of Police and Anr.	...Respondents

Mr.Rizwan Merchant, a/w Ms.Gayatri Gokhale, Mr.Yugal Bhatia, i/b
Rizwan Merchant and Associates, for the Applicant.

Ms.A.A.Takalkar, A.P.P for the Respondent-State.

PI-Vasant C. Labde, Mira Road, Police Station, Thane (Rural).

CORAM : REVATI MOHITE DERE, J.

DATE : 2nd APRIL, 2018

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-266 of 2017 registered with the Mira Road Police Station, for the alleged offences punishable under Sections 302, 307 and 504 of the Indian Penal Code.

3. Perused the charge-sheet. According to the complainant i.e. son of the deceased, he received information from his younger brother – Zoheb Mirza, that somebody had assaulted his father - Sadik Ali Mirza (deceased), and that he was lying in an injured condition, opposite Gaurav Woods Building. It is alleged by the complainant that when he reached the spot, he found his father lying at the spot and on making enquiries with the people present there, learnt that the applicant after consuming alcohol had got into a fight with the deceased and had assaulted the deceased with an alcohol bottle on his head. It appears that the complainant thereafter took his father (deceased - Sadik Ali Mirza) to Sai Ashirwad Hospital and from there to Wockard Hospital and from there to Tunga Hospital, where he expired on 8th September, 2017. There are two eye-witnesses to the alleged incident dated 6th September, 2017 i.e. alleged assault by the applicant on the deceased (Sadik Ali Mirza). According to the eye-witnesses, the incident took place outside Gaurav Woods Building. They have stated that they saw two people quarreling and abusing each other; that one of the persons was telling the other, why he was abusing his daughter and pursuant thereto, gave him a punch on his face. The said eye-witnesses have stated that because of the punch, the person fell on the road, on his

head and sustained an injury. It may be noted, that the applicant's daughter was married to deceased's younger son. Admittedly, no glass bottle or pieces were found at the spot of the incident. From a perusal of the said statements, it appears that pursuant to the punch, given by the applicant, the deceased (Sadik Ali Mirza), fell on the ground and sustained a head injury.

4. Considering the nature of allegations, qua the applicant, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- ii) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;
- iii) The Applicant shall co-operate in the conduct of the trial;

iv) If there are 2 consecutive defaults in appearing before the trial Court, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

5. The Application is allowed and disposed of in above terms.

6. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

7. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)