

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

BAIL APPLICATION NO.973 OF 2018

Vilas Kashinath Baswat
(At present at Thane Central Prison) .. Applicant
Vs.
State of Maharashtra .. Respondent

.....
Ms.Sudatta J. Patil, Advocate for the Applicant.
Ms.A.A. Takalkar, APP for the Respondent – State.
Mr.Garud, ApI, Vangaon Police Station, present.
.....

CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 4, 2018.

P.C. :

Applicant seeking bail in connection with C.R. No.I-31 of 2014, registered with Vangaon Police Station, Dahanu, District – Palghar, for the offence punishable under Section 302 of Indian Penal Code (“IPC”, for short). Applicant was arrested on 8th August, 2014.

2 The prosecution case is that the complainant is the wife of the deceased Bharat Chipat, who was the son of her paternal aunt. On 5th August, 2014, when Bharat was sitting in the Varanda of the house, applicant and the co-accused Dinesh

Karmoda came there. The co-accused was armed with wooden stick. He questioned the deceased as to why he had developed illicit relations with his wife. Thereafter, the deceased was assaulted by the accused. The co-accused gave 5 to 6 blows by the wooden stick on the person of the deceased and the applicant had allegedly assaulted him by fist blows on the chest and face of the deceased. He was taken to hospital and was subsequently declared dead.

3 Learned counsel for the applicant submits that the role attributed to the applicant is of giving fist blows to the deceased. The co-accused was armed with a wooden log (stick). Accepting the prosecution case as true, the intention to commit murder, cannot be inferred. Applicant is in custody since last four years and two months.

4 Learned APP submitted that the applicant and the co-accused were involved in assaulting the deceased. Applicant had given fist blows on the chest and face of the deceased. Postmortem Report shows that the cause of death was head injury with intra-cranial bleeding and trauma to right lung and liver. It is, thus, submitted that the act attributed to the applicant

is also related to the cause of death of the deceased. Learned APP further submitted that trial has already commenced and the prosecution has examined three witnesses and the prosecution intends to further examine about eight witnesses, and, bail may not be granted to the applicant and trial be expedited.

5 Having heard both the sides and perusing the documents on record, it can be seen that the role that has been attributed to the applicant is giving fist blows to the deceased. The co-accused was armed with wooden log (stick) and he had questioned the deceased for having relationship with his wife. *Prima facie*, it is debatable whether Section 302 is made out in this case considering the role attributed to the applicant. Although the trial has already commenced, it is important to note that the applicant is in custody for a period of about 4 years and 2 months. There are no criminal antecedents against the applicant. In the light of the aforesaid circumstances, the case for grant of bail is made out.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.973 of 2018, is allowed;

- (ii) The applicant is directed to be released on bail in connection with C.R.No.I-31 of 2014, registered with Vangaon Police Station, Dahanu, District - Palghar, which is subject matter of Sessions Case No.71 of 2014, pending in the Court of Additional Sessions Judge, Palghar, on his furnishing P.R. Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall attend Vangaon Police Station, Dahanu, District - Palghar, once in a Month on first Friday of the month between 10:00 a.m. to 12:00 noon, till the conclusion of the trial;
- (iv) Applicant shall attend the trial Court regularly during the hearing of the case, unless exempted by the Court, for some reasons;
- (v) Applicant shall not tamper with the evidence and/or shall cooperate in concluding the trial expeditiously;

(vi) Bail Application No.973 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)