

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

BAIL APPLICATION No. 1213 OF 2018

Mazhar Humaun Saidekhan

...Applicant

Vs.

State of Maharashtra

...Respondent

Mr. Pramod Kumbhar i/b. Mr. Priyal G. Sarda for Applicant

Mr. S.S. Pednekar -APP

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JULY 4, 2018

P.C.

1. Heard. This is an application under Section 439 of the Criminal Procedure Code.
2. The Applicant herein is arrested on 29th September, 2017 in Crime No. 329 of 2017 registered at Islampur Police Station, Dist. Sangli for the offences punishable under Section 302 r/w. 34 of the Indian Penal Code. The investigation is completed and the charge-sheet is filed.
3. It is the case of the prosecution that on 29th September, 2017, one Sushant Jadhav had lodged a report at the police station that on 28th

September, 2017 he had received a phone call from his paternal cousin Sachin Magdum informing him that his brother Suraj had been admitted in the ICU in the hospital of Dr. Satish Gosavi. That he had been to the hospital to see his brother. He had disclosed that in fact, the deceased was in love with one Karishma Rafik Saidekhan. She was already engaged with a third person. She used to exchange messages with him and they used to talk on cell phone late at night for hours together. That Suraj also used to meet her at night time. Her cousin and other relatives had learnt about the said love affair and were against the same. On 3rd September, 2017, Suraj had succumbed to the injury. The cause of death was “shock due to right sided parietal region subdural haematoma due to head injury”. The statement of Karishma was recorded on 29th September, 2017 and she had disclosed that in fact she was love with Suraj. That on 27th September, 2017, he had been to her house to meet her. They had chatted for quite some time. He left the house and immediately rushed inside. She had seen her cousin i.e. the present Applicant standing outside the room, he was accompanied by Suraj Saidekhan and Akib Mulla. They were assaulting him with fist and kick blows. They asked Karishma not to intervene. Thereafter, they dragged Suraj outside and latched the room. Thereafter, Suraj was found in an injured condition on the road.

4. Perused the inquest panchnama, which shows that the deceased Suraj sustained some abrasions on his head and legs as well as on his back. Column 17 of the Postmortem note indicates that CLW over the upper lip left side 1cm x 1 cm. CLW over the lower lip left side 0.5 cm x 0.5 cm.
5. The learned counsel for the Applicant submits that although there is material to show that the Applicant was last seen with the deceased, the injuries would clearly indicate that he must have only slapped him and assaulted him with kick and fist blows. Column No. 19 of the postmortem notes show that there was subdural haematoma and hairline fracture on the parietal bone.
6. According to the prosecution, the Applicant herein happens to be a boxing champion and had participated in Regional matches, he had given a hard blow on the head of Suraj which turned fatal.
7. The learned counsel for the Applicant submits that the Applicant had no intention or knowledge that his blow on the head would cause fracture. It is submitted that when he was admitted in the hospital, he was not diagnosed with the haematoma, which resulted into his death.
8. It appears that the prosecution has also given a communal picture to the present case.

9. Taking into consideration the injuries sustained by the deceased and the role attributed to the Applicant, he deserves to be enlarged on bail. The observations are prima facie in nature and shall not be considered for discharge or at the time of trial. Hence, the following order:

ORDER

- (i) Application is allowed.
 - (ii) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- each and one or more sureties in the like amount.
 - (iii) The Applicant shall not reside in Taluka Islampur till conclusion of the trial and after his release, within one week, shall give his new residential address, cell phone number and other details to the investigating agency.
- Criminal Bail Application stands disposed of in the aforesaid terms.

[SMT. SADHANA S. JADHAV, J.]