

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

CRIMINAL BAIL APPLICATION NO.2085 OF 2018

Ranjeet Shambhu Chowdhari

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Ashok Mundargi, Senior Advocate a/w. Mr. S. V. Marwadi i/b.
Ms.Khushbu Marwadi for the applicant.

Mr.Y.M. Nakhawa, APP for the respondent/State.

Mr.Abhijit Patil, PSI, Tuling Police Station, Palghar.

CORAM : PRAKASH D. NAIK, J.

DATE : 7th SEPTEMBER 2018

P.C. :

1. This is an application for bail. The applicant is arrested on 10th April, 2017 in connection with CR No.154 of 2017 registered with Tulinj Police Station, Palghar. Initially offences were registered under Sections 307, 363, 364A, 452, 323, 504, 506 of the Indian Penal Code. The injured thereafter, died after period of four months on 4th July, 2017. Hence charge was altered to 302 of the Indian Penal Code.

2. The alleged incident had occurred in the intervening night between 23rd March, 2017 to 24th March, 2017. The incident of assault was witnessed by three to four persons. According to the eye witnesses four persons came to the spot of the incident and assaulted Vishal with fist and kick blows. The co-accused Roshan Keshav Singh assaulted Vishal with Loud speaker. Vishal jumped into a lake. He was removed by the accused persons and was taken to the hospital. On 4th July, 2017, Vishal expired. The cause of death was stated as Septicemia with cerebral edema with bilateral frontal hygroma (unnatural).

3. The prosecution case is that the complainant had borrowed certain amount from the applicant and there was conflict in respect of payment which the complainant was not returning. The said fact was alleged to be the motive for committing the said crime.

4. Taking the prosecution case as it is, it is evident from the statement of the witnesses and the evidence collected by the investigating machinery during the course of investigation, that there was apparently no intention to commit murder. The factual matrix clearly indicates that the deceased was assaulted with fist and kick blows and one of the accused assaulted him by loud speaker. It is also apparent that the deceased jumped into the lake from which he was removed by the accused persons and admitted

in the hospital. Thus, no weapons were used while assaulting the deceased. He died after about four months. The main cause of death is Septicemia with cerebral edema with bilateral frontal hygroma. This Court has granted bail to accused Piyush @ Roshan Keshav Singh vide Bail Application no.1353 of 2018 by order dated 9th August, 2018. While granting bail, it is observed that *prima facie* it appears that the accused did not have intention to commit murder of Vishal which is apparent from the fact that he was rescued by the accused and he was removed from the lake when he had jumped into the lake. The alleged assault was by fist and kicks blows. The act of the accused indicate that there was no intention to commit murder. Relying upon the said observations, the learned counsel for the applicant submitted that in the light of the facts of this case, the applicant is entitled for bail on the ground on parity. The submissions deserve to be accepted, as the facts as enumerated hereinabove, does not spell out intention of murder.

5. Leared APP however submitted that case of the applicant can be distinguished from the other accused, as the applicant had motive to commit crime. The prosecution case proceeds on the basis that the complainant owed money to the applicant which is the motive for committing the crime.

6. It is submitted that there was recovery of clothes of the

deceased at the instance of the applicant. It is noted that the deceased had jumped into the lake and was removed by the accused. The clothes became wet therefore the same were changed and thereafter they were handed over to the police. Be that as it may, as there was no intent to commit murder on the alleged motive, different yardstick cannot be applied to applicant.

7. The applicant is in custody for substantial period of time. The investigation is completed. Chargesheet has been filed. There are no antecedents against the applicant. Three other accused are already granted bail by this Court. Hence, the following order;

:: ORDER ::

- (i) Bail Application is allowed.
- (ii) The applicant is directed to be released on bail in connection with connection with CR No.154 of 2017 registered with Tulinj Police Station Palghar, on his furnishing P.R. Bond in the sum of Rs.20,000/- with one or more surety in the like amount.
- (ii) The applicant shall attend the concerned police station once in a month on first Saturday of the month between 10.00 to 12.00 in the morning till further order.

(iii) The applicant shall not tamper with evidence.

Vina
Arvind
Khadpe

Digitally
signed by
Vina Arvind
Khadpe
Date:
2018.09.10
16:10:46
+0530

[PRAKASH D. NAIK, J.]