

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

CRIMINAL BAIL APPLICATION NO. 2198 OF 2018

Manoj Mahendra Jadhav	... Applicant
Vs.	
State of Maharashtra	... Respondent

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Mr. Raju D. Suryawanshi for the applicant.
Ms. A.A. Takalkar, APP for the Respondent-State.
Mr. Laxman S. Ghane, PSI Tulinj Police Station is present.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 24th OCTOBER, 2018.**

P.C.

1. This is an application for bail in connection with C.R. No. 216 of 2018 registered with Tulinj Police Station for offence punishable under Sections 302, 323, 504, 506, 34 of Indian Penal Code. The First Information Report was lodged on 3rd March, 2018. The applicant was arrested on 3rd March, 2018.

2. The prosecution case is that the complainant is residing at Yashwant Park CHS, Vasai (E) with his family. The complainant takes catering order. The father and brother of the complainant are doing the business of selling onion/potato. The applicant/accused is residing in the same vicinity. The

complainant knows the applicant since last 10-12 years. One Dharmendrakumar Yadav is selling coconut water in Gala No.11 and he gave order of non-veg food to the applicant on the occasion of Dhulivandan. In the afternoon at about 3.30 p.m one person Vinod Singh came there. At that time one Ganesh working in Laxmi Tea Center at Gala No.2 also came there and told the complainant to prepare chicken for him. Dharmendrakumar and Vinod Singh told Ganesh to go somewhere else, and on that count Ganesh was annoyed and there was quarrel between them. At about 3.45 p.m. Ganesh came to the spot of the incident alongwith applicant and two unknown persons. At that time watchman Vinod Singh was standing on the spot. Ganesh, applicant and two unknown persons abused Vinod Singh and assaulted him by first and kick blows. Applicant took the knife which was lying in Gala and assaulted left side of neck of Vinod Singh by knife and ran from there. Complainant was took Vinod Singh to hospital where doctor declared him dead.

3. Only submission advanced by the learned counsel for the applicant is that there was no premeditation to assault Vinod Singh by knife. During the quarrel, the knife which was lying at the Gala was picked up by the accused and one single blow was

given on the neck of the injured. It is submitted that there was no intention to commit murder and therefore the case would not fall under Section 302 of Indian Penal Code. The case may fall within purview of Section 304 II of Indian Penal Code.

4. On the contrary, learned APP submitted that specific overt act has been attributed to the applicant. The victim has died on account of blow given by the applicant. Second incident had occurred on account of the previous quarrel, the accused had planned to assault the deceased. The other accused had picked up quarrel with Vinod Singh in the earlier incident and he again came at the place of incident alongwith applicant. Applicant had a knowledge and intention that the blow would result into death of the victim and therefore offence under Section 302 of Indian Penal Code is made out. It is submitted that involvement of the applicant is envisaged from the statement of eye witnesses to the incident because of the death of the deceased on account of blow of knife given by the applicant/accused.

5. Having heard both the sides. I have perused the chargesheet. Incident is of quarrel which had occurred between the co-accused and the injured on the earlier occasion. Applicant had allegedly accompanied with other accused. Again there was

quarrel between accused and watchman Vinod Singh. He was assaulted by fist and kick blows. The applicant had picked up the knife which was lying at place of incident and gave a single blow. It is not the case of prosecution that the accused was armed with the weapon and there was premeditation to assault the injured by using weapon. It is true that blow was given on the neck of the injured. Trial Court would consider the applicability of Section 302 of Indian Penal Code or any other lesser at the time of trial. However, prima-facie considering the act attributed to the applicant, there may not be intention to commit murder of the deceased. There are criminal antecedents against the applicant. Taking into consideration aforesaid circumstances, the case for grant of bail is made out.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No. I-216 of 2018 registered with Tulinj Police Station on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. Applicant shall report the concerned Police Station on first Saturday of the month between 10 a.m. and 12 noon till the

conclusion of the trial.

iv. Applicant shall attend the trial Court on the date of hearing of the case regularly unless exempted by the Court for some reason.

v. Applicant shall not tamper with the evidence and/or influence the prosecution witnesses;

vi. The observations made in this order are prima-facie for considering grant of bail, trial Court shall not be influenced by the same at the time of trial;

vii. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)

Sachidanand
Kuttan Nair

Digitally signed
by Sachidanand
Kuttan Nair
Date:
2018.10.30
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