

Anand

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

BAIL APPLICATION NO. 2444 OF 2017

Ezaz Mansur Ansari .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. S. A. Shaikh, Advocate, for the Applicant

Mrs. A. A. Takalkar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 09.03.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 216 of 2017 registered with the Padgha Police Station, Thane (Rural), for the alleged offences punishable under Sections 302, 326 r/w 34 of the Indian Penal Code.

3. Learned counsel for the Applicant submits that taking the prosecution case as it stands, no offence under Section 302 of the Indian Penal Code is disclosed qua the Applicant. He submits that even according to the prosecution, the incident had taken place on the spur of

the moment and that there was no premeditation to kill the deceased. He submits that the Applicant has no antecedents and that investigation is complete and charge-sheet is filed.

4. Learned APP opposed the Application.

5. Perused the papers. There is one eye witness to the incident i. e. Aslam. According to Aslam, he heard some altercation and fight between Vilas and the present Applicant and when he came out of the room, he saw that the Applicant had assaulted Vilas with an iron rod on his head. He has stated that when he intervened, the Applicant attempted to pick up a tyre which was lying at the spot and attempted to throw it on Vilas, however, he prevented the Applicant from doing so. According to Gulab Jadhav, Vilas (deceased) had called him to his room to give him a party, as Gulab had got the job for Vilas in Pandey Stone Crusher. He has stated that when he went to Vilas's room, an unknown person was present there and that some altercation started between the two. He has stated that the said person asked Vilas why he was reporting against them to the owner, as a result of which the owner was abusing him. When Gulab intervened in the quarrel i. e. between Vilas and the Applicant, Vilas is alleged to have slapped Gulab, as a result of which

Gulab left the spot. Prima facie, it appears that the incident took place at the spur of the moment. There is nothing to show that the Applicant had carried an iron rod with him. It also appears that it is a case of single blow. Admittedly, although the incident had taken place on 25.05.2017, the deceased Vilas succumbed to the injuries on 06.06.2017. The Applicant has no antecedents. Investigation is complete & charge-sheet is filed.

6. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

(i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs. 25,000/-** with one or two local solvent sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned police station on the **first Saturday of every month** between **10 : 00 a. m. to 11 : 00 a. m.** till the conclusion of the trial;

(iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The Applicant to cooperate with the conduct of the trial;

(v) The Applicant shall file an undertaking with regard to Clauses (ii) to (iv), in the trial Court, within two weeks of his release;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

7. The Application is accordingly disposed of.

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

(REVATI MOHITE DERE, J.)