

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

ANTICIPATORY BAIL APPLICATION NO.2113 OF 2018

Nivrutti Laxman Gaikwad	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Sachin Gite for the Applicant.
Mr. S.H. Yadav, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 11th OCTOBER, 2018.

P.C.:-

This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R. No.251 of 2017 registered with Wadivarhe Police Station, District Nashik, for offences punishable under Sections 302 and 323 of the Indian Penal Code, 1860.

2. Heard Mr. Sachin Gite, the learned counsel for the Applicant and Mr. S.H. Yadav, the learned APP for the Respondent-State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The records prima facie reveal that one Dilip Gaikar had lodged the FIR on 13.12.2017 alleging that on 12.12.2017 at about 5.30 p.m. the Applicant herein had assaulted his paternal uncle Tryambak Kisan Gaikar by means of a wooden log. Said Tryambak had sustained head injuries and he was taken to the hospital of Dr. Mahendra Shirsath where he was given first aid and referred to Vakratund Hospital, Nashik, for further treatment. Based on the said FIR initially offences under Sections 307 and 323 came to be recorded. Said Tryambak expired and his body was referred for post mortem examination. The post mortem report reveals that death of Tryambak was due to head injury. Hence, Section 302 of the IPC was added.

4. The FIR and the statements of the eye witnesses prima facie indicate that the Applicant herein had given a blow of wooden log on the head of Tryambak Gaikar. Medical Certificate issued by the Medical Officer of Vakratunda Hospital prima facie reveals that the patient was brought with head injuries, he was gasping and frothing from the mouth. He had a CLW over right parietal region. Craniotomy surgery was done on 13.12.2017. Subsequently he went into vegetative shock. The records reveal that the victim was discharged on 3.2.2018 against medical advice and thereafter he was admitted in

Urja Care Centre for physical therapy. From the said hospital he was once again shifted to Vakratund hospital. He expired on 24.4.2018. At the time of discharge he was not following the commands properly and he was totally bed ridden. The post mortem report reveals that said Tryambak had expired due to cranial injuries due to blunt force trauma to head.

5. The material on record reveals that the Applicant had inflicted injury on the vital part of the body, which had resulted in the death of the deceased-Tryambak.

6. Considering the nature of the offence, in my considered view this is not a fit case for grant of pre-arrest bail. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

Megha
Shridhar
Parab

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by Megha
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2018.10.23
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