

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

CRIMINAL BAIL APPLICATION NO. 2824 OF 2017

Sagar Krupashankar Pandey ... Applicant.

Versus

State of Maharashtra ... Respondent.

Mr. A.P.Mundargi, Senior Advocate, a/w. Induprakashi Tripathi
for the Applicant.

Mr. A. A. Palkar, APP for the State.

CORAM : REVATI MOHITE DERE, J.

DATE : MARCH 13, 2018

P.C.

1 Heard learned counsel for the parties.

2 By this application, the Applicant seeks his
enlargement on bail in connection with C.R. No. 154 of 2017
registered with the Tulinj Police Station, Vasai, Dist. Palghar, for
the alleged offences punishable under Sections 307, 302, 363,
364 (a), 452, 323, 504 & 506, r/w. Section 34 of the Indian
Penal Code.

3 Learned Senior Counsel for the Applicant submits
that the applicant has been falsely implicated in the said case.

He submits the applicant was not named by any of the witnesses nor has he been identified in the identification parade, which was held on 16.09.2017. He submitted that there is recovery of a loudspeaker, which was allegedly used in the assault, at the instance of the applicant. He submits that, according to the prosecution, it is co-accused - Roshan, who assaulted the deceased with the loudspeaker. He submitted that the applicant has no antecedents and that the investigation is complete and charge-sheet is filed.

4 Learned APP opposed the application. He has tendered a copy of the post-mortem report.

5 Perused the chargesheet. The alleged incident took place in the intervening night of 23.03.2017 and 24.03.2017. The incident of assault was witnessed by 3 to 4 persons. According to the eye witnesses, four persons came to the spot and assaulted Vishal with fists and kicks blow. It is also alleged that co-accused - Roshan assaulted Vishal with loudspeaker. It appears that after the assault, Vishal ran and jumped into a lake and was removed by the accused persons and was taken to the Nalasopara BMC Hospital. Vishal expired on 04.07.2017. The cause of death is stated to be "Septicemia with cerebral edema with bilateral frontal hygroma (unnatural)". Column 17 of the post-mortem report shows the following injuries :

- 1) Therapeutic tracheostomy wound present on midline of neck.
- 2) Sutured wound for central line access present on right side of neck.
- 3) Decubitus ulcers present on midline of lower back & buttock of size 3 x 2 cm & 6 x 4 cm respectively, margins – infected.
- 4) Decubitus ulcer present on lateral aspects of right buttock lower quadrant of size 3 x 3 cm, margins – infected.

6 Admittedly, the applicant has not been named by any of the witnesses and in-fact in the identification parade, which was held on 16.09.2017, the applicant has not been identified by any of the witnesses. No motive is alleged as against the applicant. It also appears that after the assault, Vishal ran and jumped into a lake and was pulled out by the accused persons and was taken to the Nalasopara BMC hospital. Vishal expired after almost four months of the incident. Investigation is complete and chargesheet is filed. The applicant has no antecedents.

7 Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :-

ORDER

i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two 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 from 10.00 a.m. to 12 noon till the conclusion of the trial.

iii) The Applicant shall not contact / threaten the complainant or any other witnesses concerned with the said case;

iii) The Applicant shall co-operate in the conduct of the trial;

8 The Application is allowed and disposed of in the above terms.

9 It is made clear that the observations made herein are prima facie and are confined to this application and the

learned Sessions Judge to decide the case on its own merits, uninfluenced by the observations made herein.

10 All concerned to act on the authenticated copy of this order, duly issued by the Registry of this court.

(REVATI MOHITE DERE, J.)

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