

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3039 OF 2017***

Pankaj Bapu Bansode
Versus
The State of Maharashtra

Applicant

Respondent

Mr. Vikas B. Shivarkar, for the applicant.
Ms. S.S. Kaushik, APP, for the State.

***CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 30th January, 2018.***

P.C. :

1. Heard the learned counsel for the applicant. The applicant herein is arrested on 25.10.2016 in Crime No.232 of 2016 registered at Mundhawa Police Station, Pune. The investigation is completed and charge-sheet is filed against the applicant for the offences punishable under Sections 302 and 323 of the Indian Penal Code.

2. It is the case of the prosecution that on 24.10.2016, Arvind Honaji Ghojage had been to the Godrej Infinity site of Godrej Properties for landscaping the garden of the society. The applicant had brought in water tanker. Arvind Ghojage had complained that the said water tanker is

causing obstruction in his work. It is alleged that there was an altercation between the applicant and Arvind Ghojage and his servant Chitravat. In the said altercation, the present applicant is alleged to have picked up a wooden log lying by the side and had assaulted Arvind Ghojage. Arvind Ghojage had informed the same to his cousin Advocate Madhusudan. On the same day, i.e. 24.10.2016, his brother Chandrakant Ghojage had lodged a report at the police station, on the basis of which crime No.232 of 2016 was registered against the applicant for an offence punishable under Section 326 of the Indian Penal Code.

3. It appears from the papers of investigation that Arvind Ghojage was operated. He had undergone Craniotomy. He was treated at several hospitals. On 24.1.2017, Arvind Ghojage had succumbed to the said injury and hence Section 302 of the IPC was added.

4. The learned counsel for the applicant has rightly submitted that the incident had occurred on the spur of moment, in a fit of rage. There was no intention of causing homicidal death of Arvind Ghojage. It is also submitted that the possibility that the medical intervention could be the cause of death cannot be ruled out as the victim had succumbed to the said injury practically after three months.

5. The learned APP submits that the blow was given with such a force that the victim had to undergo the operation of Craniotomy and did not recover from the same and, therefore, the applicant does not deserve to be enlarged on bail.

6. Taking into consideration the papers of investigation the manner in which the incident had occurred and the fact that the victim had died practically after 3 months of the alleged incident, this Court is of the opinion that the applicant deserves to be enlarged on bail.

7. However, the above observations are restricted to an application under Section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

(i) The application is allowed.

(ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.

(iii) The applicant shall report to the Mundhawa Police Station, Pune on 1st and 3rd Sunday of each month between 10.30 a.m. to 12 noon till the framing of charge.

(iv) Upon failure to attend on any two consecutive dates, the prosecution would be at liberty to file a application under Section 439 clause (2) of Cr.P.C.

Application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)