

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2541 OF 2019

Irfan Haidari Firoz Irani

Applicant

versus

The State of Maharashtra

Respondent

Dr.Nilesh V.B.Pawaskar with Miss Aparna D. Vhatkar with Sabiha Shaikh i/by Pravin V.Gaikwad for applicant.

Mr.H.J.Dedhia, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 27th November 2019

PC :

1. This is an application for bail in CR No.133 of 2017 registered with Sanjay Nagar Police Station, Sangli for offences under Sections 143, 147, 148, 149, 201, 302 of Indian Penal Code.

2. The case of prosecution is that the applicant was armed with a knife and assaulted the deceased. The other accused caught hold of the deceased and at that time applicant gave forceful blow of knife on the deceased. On completing investigation charge sheet is filed.

3. Learned counsel for applicant drew my attention to the statement of eye witness recorded u/s 161 as well as Section 164 of Code of Criminal Procedure. It is submitted that there are major contradictions in the versions of witnesses, which create doubt about veracity of their statements. It is submitted that the applicant is a young boy preparing for his examination for entry in police

department. The entire family of the applicant is educated. Whereas the deceased was involved in several criminal cases. He was a hardened criminal. Learned counsel pointed out the cases registered against him. It is submitted that there are no antecedents against applicant. Learned counsel for applicant submits that assuming that the allegations are true, there was no intent to commit murder. It is further submitted that the versions of the witnesses suggest that the accused was standing in front of the deceased and it was not possible for him to give blow by knife at the back of the deceased, which creates doubt about the prosecution case.

4. Learned APP submitted that there are eye witnesses to the incident. There is consistency as far as assault by weapon by the applicant. There are minor contradictions which are not fatal to the prosecution case. The blow attributed to the applicant was so forceful that it had reached to the pericardium portion of heart of the deceased, which has caused the death. The applicant was absconding for a period of nine months and thereafter he was arrested. If he is released on bail, there is danger to the life of witnesses, more particularly family members of deceased.

5. I have perused the documents on record. Although there are some contradictions in the statements which are minor in nature, the versions of witnesses are consistent so far as assault by applicant upon deceased with the help of knife. The post mortem report mentions that there is single stab injury over left side of back thoracic region measuring about 3 cm x 1 cm x depth reaching upto pericardium of heart. The injury was at a distance of 29 cm from left nipple in a vertical direction, oval in shape. The post mortem report

also mentions that the cause of death was due to haemorrhagic shock following injuries to vital organs.

6. As pointed out by learned APP, the applicant was absconding for nine months. The apprehension expressed by learned APP that the applicant may not be available for trial in the event he is granted bail is fortified by the said fact. The evidence on record attributes specific role of assault by weapon to the applicant. In the circumstances, no case for grant of bail is made out.

7. Accordingly, Criminal Bail Application No.2541 of 2019 is rejected.

(PRAKASH D. NAIK, J.)

MST