

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

CRIMINAL BAIL APPLICATION NO. 88 OF 2019

Vikas Baban Khedkar ... Applicant

Versus

State of Maharashtra ... Respondent

Mr. Satyam H. Nimbalkar for Applicant.

Mr. S. S. Hulke, APP for Respondent – State.

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 20, 2019.

P.C. :

. The Applicant is seeking regular bail in Crime No.198 of 2017 for an offence punishable under Section 302 of the Indian Penal Code. On December 22, 2017 the Applicant came to be arrested and was chargesheeted.

2. The Applicant's father and father of the deceased are real brothers. The wife of deceased left him for certain undisclosed reasons which according to deceased was within the knowledge of the Applicant. As such, the deceased became alcoholic and time and again started assaulting the Applicant and also his family members. From the

prosecution story it appears that having frustrated because of the repeated act of assault by the deceased, the Applicant assaulted the deceased resulting into his death. As such the present offence.

3. Perused the statement of mother of the deceased, cousin brother Ajay and wife of the Applicant. The story as could be inferred from the investigation as reflected in the chargesheet is that deceased Prakash was in the habit of consuming alcohol and assaulted the Applicant and his family members thereby blaming the Applicant for his matrimonial discord.

4. On the date of the incident, deceased Prakash initially assaulted the Applicant in the field, thereby entered the house of the Applicant, damaged household belongings and assaulted the Applicant and his family members. It appears that the Applicant in self-defence appears to have assaulted the deceased Prakash and immediately called brother Ajay for taking him to hospital, having noticed that Prakash has become unconscious.

5. The aforesaid story can be very much inferred from the statement of the witnesses *referred supra* including the mother of the deceased Prakash.

6. On earlier occasion the Applicant had already lodged a complaint against the deceased Praksh having been aggrieved by the behaviour of deceased Prakash assaulting him and his family members. In the aforesaid background, it is really difficult to infer that the Applicant had an intention to commit an offence under section 302 of IPC. As such, a case for grant of bail is made out. Hence, the following order.

ORDER

- (A) The Applicant be released on bail in Crime No.198 of 2017 for an offence punishable under Section 302 of the Indian Penal Code on executing PR Bond of Rs.25,000/- with one surety in the like amount.
- (B) The Applicant shall neither tamper the evidence of prosecution nor influence the prosecution witnesses.

7. Criminal Bail Application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)