

Anand

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

BAIL APPLICATION NO. 866 OF 2019

Hemant Kedarnath Gaud .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. B. K. Manghani, Advocate, for the Applicant
Mr. P. H. Gaikwad, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 11.06.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 97 of 2018 registered with the Trombay Police Station, Mumbai, for the alleged offences punishable under Sections 302, 307, 342, 504 r/w 34 of the Indian Penal Code.

3. Perused the papers. According to the prosecution, the incident took place on 11.04.2018 between 7.30 p. m. and 8.00

p. m. It is alleged by the Complainant – Rakesh Prajapati that on 11.04.2018 at about 7.30 p. m., the Applicant visited their house and asked his brother – Bindu (deceased) to accompany him to Raghu's house, as Raghu wanted to speak to him. It is further alleged that after some time, he heard his brother's cries, coming from Raghu's house, pursuant to which, he went to Raghu's house. He has stated that a crowd had gathered and people were asking Raghu to open the door. He has stated that at about 8.00 p. m. when Raghu opened the door, his brother – Bindu walked out in an injured condition. He has stated that at that time, he saw that Raghu was armed with a wooden stick. He has stated that his brother disclosed to him that Raghu was upset, as he and Raghu's sister would talk on the phone, pursuant to which the Applicant and another co-accused called him to Raghu's house, closed the door, abused him and that all assaulted him with kick and fist blows. Bindu is further alleged to have disclosed that the Applicant and another co-accused – Golu had held him and that Raghu had assaulted him with a wooden stick on his head and shoulders. According to the Complainant, as his brother was feeling giddy, he was taken to Shatabdi Hospital. Bindu expired

on 23.04.2018 i. e. after more than ten days of the incident. Accordingly, Section 302 of the Indian Penal Code was added. Bindu's cause of death is stated to be septicemia following head injury in the Death Card for Police Station Form. Prima facie, it appears that the Applicant had no motive to assault the deceased. Whether or not, in the facts, the offence would be under Section 302 or a lesser offence would be decided by the trial Court. The Applicant is a student and was studying in the Aisha Junior College of Arts, Science & Commerce, Govandi at the relevant time and had appeared for his HSC examination. The Applicant has no antecedents.

4. Considering the role of the Applicant and considering his age, the Application is allowed and the Applicant is enlarged on bail on the following terms and conditions :-

ORDER

- (i) The Applicant – Hemant Gaud be released on **cash bail** in the sum of **Rs. 20,000/-**, for a period of eight weeks;
- (ii) The Applicant shall within the said period of eight weeks, furnish P. R. Bond in the sum of Rs. 20,000/- within one

or more sureties in the like amount;

(iii) The Applicant shall report to the investigating officer of the concerned Police Station on the first Monday of every month between 10:00 a. m. and 1:00 p. m. for a period of 12 months from the date of his release;

(iv) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vi) The Applicant to cooperate with the conduct of the trial;

(vii) The Applicant to file an undertaking with regard to Clauses (ii) to (vi), in the trial Court, within two weeks of his release;

(viii) If there are two consecutive defaults in appearing before the trial Court or breach of any of the conditions, it would

be open for the prosecution to seek cancellation of the Applicant's bail.

5. The Application is allowed in the aforesaid terms and is accordingly disposed of.

All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.)