

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.973 OF 2019

Arvind Bhimrao Atkale] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Niteen Pradhan i/b Ms. Shubhada Khot, Advocate for the Applicant.

Mr. Prashant Jadhav, APP for the State/Respondent.

Mr. S.N. Kshirsagar, PN 409 attached to Tembhurni Police Station, Solapur Rural present.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 16th AUGUST, 2019.

P. C. :-

1. The applicant is seeking bail in connection with C.R.No.274/2018 registered with Tembhurni Police Station, Solapur Rural u/sec.364, 302 r/w 34 of I.P.C.

2. The offence pertains to commission of murder of one Laxman Surve. The deceased was taken forcibly in the car by the present applicant and others and was brutally assaulted at a secluded place causing his murder. The FIR was lodged by father of the deceased

Changdev Surve on 21/06/2018. He has stated that, about 8 days prior to the FIR, he had come to know that somebody had stopped the applicant's car and had broken the windshield. His mobile phone was taken away. On 21/06/2018, at about 5.00 p.m., four persons in a car came to the house of the first informant. One of them straight away started assaulting the deceased. That person was having bandage on his head. His name was Arvind Atkale i.e. name of the present applicant. He was blaming deceased for causing damage to his car. The deceased Laxman was forcibly taken in the car. Sister of the deceased Jayashree tried to stop them. However, the accused showed Sattur and threatened the first informant and others. The first informant went to the police station to give information about the incident. At about 7.00 p.m., the informant came to know that, the deceased was lying near Jadhavwadi stop. They went there. They saw that, the deceased was brutally assaulted. He was asking for water. On questioning, he took the name of one Siddhu. He was immediately taken to Civil Hospital at Solapur where he was declared dead.

3. The investigation was carried out. The applicant was arrested on 23/06/2018. The postmortem report shows that, the deceased had suffered as many as 23 injuries all over his body and the cause of death was mentioned as “Shock and haemorrhage due to multiple injuries”.

4. The investigation was completed and the charge-sheet was filed. It is mentioned in the charge-sheet that, on 20/06/2018 the applicant along with other accused namely Nitin Talekar, Rajkumar Zambare, Pandit Holkar took away deceased in a Tata Indigo Car. The car was registered with no. MH-14-FC-1037. But the fake name plate bearing no.MH-14-AF-4467 was attached to the car. The deceased was taken forcibly from his house and was taken to a secluded space within Bardi village where he was brutally assaulted with wooden sticks, plastic pipes, fist blows and kicks by all the accused. Thereafter, he was left at Jadhavwadi Bus Stop.

5. Heard Mr. Niteen Pradhan, Ld. Counsel for the Applicant and Mr. Prashant Jadhav, APP for the State/Respondent.

6. Ld. Counsel for the applicant submitted that, the eye witnesses statements are inconsistent. Their statements are recorded u/sec. 164 of Cr. P.C. as well. In the statement recorded u/sec. 164 of Cr. P.C., the witnesses Dattatray Chavan, Vilas Sawant and Bhimrao Shinde have not named the present applicant. Only Dhanaji Kavade and Samadhan Laate have named the present applicant as one of the assailants who were assaulting the deceased between 7.00 p.m. to 7.30 p.m. near the bus stop. He submitted that, the weapons were not used in the assault and therefore the offence would not fall within definition of “murder”. He submitted that, the investigation is over and further custody of the applicant is not required.

7. Mr. Jadhav, Ld. APP submitted that, though the other eye witnesses have not named the applicant in their statement u/sec.164 of Cr. P.C., they had identified the applicant in the test identification parade held on 17/08/2018. He submitted that, there is recovery of sticks at the instance of the present applicant. He submitted that, the offence is clearly made out and looking at the manner in which the deceased was assaulted, the applicant does not deserve to be released on bail.

8. I have considered these submissions. Though some of the eye witnesses have not named the applicant in their statement u/sec. 164 of Cr. P.C., but they have identified the applicant in test identification parade. The premeditation on the part of the accused is clear from the fact that they were in search of the deceased. They came to his house and thereafter he was forcibly taken to a secluded place and was brutally assaulted. The number of injuries suffered by the deceased show that intention as well as knowledge can be attributed to the present applicant and others. In this view of the matter, no case for bail is made out.

9. All these observations are made for deciding this bail application. The Ld. Trial Judge shall decide the trial on its own merits without being influenced by these observations. Hence, the following order.

ORDER

Application is rejected and stands disposed of accordingly.

(SARANG V. KOTWAL, J.)