

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1086 OF 2019**

Pravin @ Pappu Dagadu Kadam	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. M. S. Mohite I/b Mr. S. R. Phanse for the Applicant

Ms. Veera Shinde, A.P.P for the Respondent-State

PSI Mr. R. K. Ghige from Dighi Police Station, Pune, is present

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 22nd AUGUST 2019

P.C. :

1 In view of the 'Not Before' order passed by Hon'ble Shri Justice Sarang V. Kotwal, the aforesaid application has been placed before this Court.

2 Heard learned counsel for the parties.

3 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 178 of 2018 registered with the Dighi Police Station, Pune, for the alleged offence punishable under Section 302 of the

Indian Penal Code.

4 Learned counsel for the applicant submitted that the motive alleged as against the applicant is weak, inasmuch as, the dispute had taken place about 6 to 7 months prior to the incident, over payment of a hotel bill. He further submitted that the incident seems to have taken place on the spur of the moment and that there was no provocation to commit the alleged offence. He submitted that the hammer with which the deceased was allegedly assaulted, was picked up from the spot. He further submitted that the C.A. report shows that the blood group of the deceased was inconclusive.

5 Learned A.P.P opposed the application.

6 Perused the papers. The prosecution case rests on circumstantial evidence. The incident in question is alleged to have taken place in the intervening night between 2nd and 3rd July 2018. There are several witnesses who had seen the applicant and the deceased together on 2nd July 2018 i.e. from 9:30 a.m. to 7:00 p.m. One of the witness i.e. Sandeep Bele has stated that he had seen the applicant and the deceased drinking toddy and going towards the cattle-shed of Anil Tapkir. The dead

body was found on the next day by Anil Tapkir at his shed i.e. on 3rd July 2018 at 9:30 a.m.

7 *Prima facie*, it appears that the applicant was last seen in the company of the deceased. The deceased was assaulted with a hammer and has sustained almost 17 injuries. The applicant was arrested on the very same day i.e. on 3rd July 2018 with blood-stained clothes on his person. The C.A. report shows that the blood group of the applicant was 'B', however, what was found on the clothes was 'O' group. It appears that the blood group of the deceased could not be ascertained and as such, report states that it is inconclusive. Whether or not the offence would be under Section 302 or a lesser offence, is a matter, which will be decided by the trial Court.

8 Considering the material on record, this is not a fit case to enlarge the applicant on bail. Accordingly, the application is rejected.

9 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.