

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1641 OF 2019

Sitaram Vithoba Vahile] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Kuldeep Patil, Advocate for the Applicant.

Ms. S.S. Kaushik, APP for the State/Respondent.

PSI R.K. Ghige attached to Dighi Police Station, Pimpri Chinchwad, Pune present.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 6th SEPTEMBER, 2019.

P. C. :-

1. The applicant is seeking his release on bail in connection with C.R.No.303/2018 registered with Dighi Police Station, Pune City u/sec.302 of I.P.C.

2. The FIR is lodged on 02/11/2018 by Shantaram Talekar in respect of murder of his son Pradeep. He has stated that, on 01/11/2018 at 6.00 p.m., he came home from his work. After some time, his son Pradeep came home. He slept on sofa. The informant saw that, Pradeep had suffered injuries on the forehead and on the

sides of both eyes. When he inquired with Pradeep, he told the informant that, the present applicant had assaulted him with tiles on the head. The informant and his wife suggested that, he could go to the doctor for treatment. However, Pradeep refused and just slept. On the next day in the morning when the informant tried to wake him up, he did not respond. He was immediately removed to Y.C.M. Hospital, Pune, but the doctor declared him dead before admission. On this basis, the FIR is lodged.

3. The applicant is arrested on 02/11/2018 and since then he is in custody. The investigation is over and the charge-sheet is filed. With the assistance of learned Counsel, I have gone through the entire charge-sheet.

4. Heard Mr. Kuldeep Patil, Ld. Counsel for the Applicant and Ms.S.S. Kaushik, Ld. APP for the State/Respondent.

5. Mr. Patil submitted that, taking the allegations at their highest, no offence u/sec. 302 of I.P.C. is made out. He submitted that, there are statements of three eye witnesses who have stated that, suddenly out of quarrel between the applicant and the deceased this incident

had happened. The applicant does not have criminal antecedents. The investigation is over and his further custody is not necessary.

6. Ld. APP opposed these submissions and submitted that, the offence is serious and there are eye witnesses to the incident.

7. I have considered these submissions. The most important eye witness is one Balaji Kasare whose statement is immediately recorded on 02/11/2018. He has stated that, on 01/11/2018 at around 4.00 p.m., he was sitting in a shed near Rajparva Society at Vahile Nagar. He was consuming liquor. Similarly, the applicant and the deceased were also sitting together drinking liquor. After some time, suddenly deceased and the applicant started quarreling. The deceased slapped the applicant 2/3 times. He also abused the applicant. In a fit of anger, the applicant picked up a piece of tile which was lying at the spot and gave a blow on the head of the deceased. The deceased fell down. This witness and one Krishna Patel went to separate them. The deceased had fallen down and there was bleeding from his head and nose. After some time, he got up and sat. Krishna Patel dropped the deceased to his house and thereafter, the applicant also left from there.

8. From the statement of Krishna Patel and Umesh Kumbhar who have also stated that, there was quarrel between the applicant and the deceased and out of that quarrel this incident has taken place. The statement of these witnesses shows that, the incident has taken place suddenly and without premeditation. The applicant had given only one blow. Initially nobody knew that, the assault was serious. The deceased was moving around and talking. He was left at his house. Even there the parents of the deceased did not insist that, he should be taken to hospital. Even the deceased did not go to the hospital. Thus, apparently everybody was under the impression that, the injury was not so serious. However, on the next day, it was found that, the deceased had died. Thus, considering all this situation, it is extremely doubtful as to whether offence punishable u/sec. 302 of I.P.C. is made out. The applicant is already in custody since 02/11/2018. The charge-sheet is filed. He has no criminal antecedents. The incident has occurred on a spur of moment. The applicant was slapped by the deceased. The applicant had given only one blow. Considering, all this aspects, I am inclined to grant bail to the applicant. Hence, the following order.

ORDER

1. The Applicant is directed to be released on bail in connection with C.R.No.303/2018 registered with Dighi Police Station, Pune City, on his furnishing P.R.Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
2. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)