

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1869 OF 2019**

1. Abhijeet Ashok Patil	
2. Jagdish Ashok Patil	...Applicants
Versus	
The State of Maharashtra	...Respondent

Mr. Harshad Nimbalkar a/w Mr. Satyam H. Nimbalkar, Ms. Sujata Jadhav, Mr. Shivam Nimbalkar and Mr. Rohan Hogle for the Applicants

Mr. S. S. Hulke, A.P.P for the Respondent-State

API Mr. Bhushan Kapadnis from Shildaighar Police Station, Thane, is present

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 17th OCTOBER 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicants seek their enlargement on bail in connection with C.R. No. I-244 of 2018 registered with the Shildaighar Police Station, Thane, for the alleged offences punishable under Sections 302 r/w 34 of the Indian Penal Code.

3 Perused the papers. According to the complainant-Santosh Sah, the incident took place on 25th November 2018. He has stated that his brother-Dilip Sah (deceased) was under the influence of alcohol, when the

applicant No. 1 along with two others, suddenly entered their house and assaulted Dilip with fist and kick blows on his abdomen, head and private part. He has stated that his brother-Dilip was taken to a local clinic for treatment on the next day and thereafter to Chhatrapati Shivaji Maharaj Hospital for treatment, where he underwent abdominal surgery and later succumbed to the same on 29th November 2018.

4 Learned counsel for the applicants submits that a perusal of the statements of the eye-witnesses will show that there was a quarrel between Dilip Sah and Vinod Sah, while playing cards, over money, pursuant to which, the applicants (who are the sons of the landlord of the room, where the deceased, complainant and other labourers were residing), came and tried to pacify the quarrel. The witnesses have alleged that Dilip was not in a state of listening, as he was under the influence of alcohol, pursuant to which, the applicants assaulted him with fist and kick blows. The witnesses have further stated that after Dilip fell on the ground, the accused i.e. the applicants left the spot. The witnesses have stated that pursuant to the assault, Dilip had pain in his abdomen and was taken to the hospital on the next day i.e. on 26th January 2018 at 11:00 a.m, after which, surgery was performed and thereafter, he succumbed to the said injury.

5 A perusal of the statements of the eye-witnesses show that the incident took place on 25th November 2018 at about 1:30 p.m, when the complainant, deceased-Dilip and other labourers were playing cards, resulting in a quarrel between them. It appears that the applicants who were the landlord's children, tried to pacify the quarrel and as the deceased did not listen, the applicants assaulted the deceased with fist and kick blows.

6 Whether an offence under Section 302 is disclosed or not, is a matter which will be decided by the trial Court. The applicants have no antecedents. The applicants also *prima facie* do not appear to have any motive to assault the deceased. The applicants are in custody since 24th December 2018. Investigation is complete and charge-sheet is filed. Accordingly, the application is allowed on the following terms and conditions :

ORDER

- (i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- each, with one or two sureties in the like amount;

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

(iii) The applicants shall inform their latest place of residence and mobile contact numbers 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;

(iv) The applicants to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted.

7 The application is accordingly disposed of.

8 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.

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

REVATI MOHITE DERE, J.