

Anand

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

BAIL APPLICATION NO. 2119 OF 2019

Ranjay Nakul Saha .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Neville D. Deboo i/b. Mr. Abhay B. Bhoir, Advocate, for the Applicant

Mr. S. S. Hulke, APP, for the Respondent – State

Mr. Ramchandra Mohite, PI, Shil Daighar Police Station, Thane present

CORAM : REVATI MOHITE DERE, J.

DATE : 23.09.2019

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. I-209 of 2018 registered with the Shil Daighar Police Station, Thane, for the alleged offence punishable under Section 302 r/w 34 of the Indian Penal Code.

3. According to the prosecution, the incident took place on 14.11.2018. The prosecution case rests on circumstantial evidence. According to the Complainant – Prakash Maruti Pawar (son of the deceased – Maruti Pawar), he had seen his father with his uncle on 14.11.2018 at 4:30 p. m.. He has stated that on 15.11.2018 at about 1:15

p. m., one Gajanan Mhatre informed him that some unknown person had killed his father and that his dead body was lying behind the office of Hiranman Mokashi, Mokashi Pada, Mumbra-Panvel Road, Thane. When the Complainant visited the said spot, he found his father lying at the spot and found that his head had been smashed with a stone. Pursuant thereto, an FIR was lodged as against unknown persons. It appears that the co-accused – Raj Chepang became an approver and his statement was recorded by the learned Magistrate under Section 164 of the Cr. P. C.. Prima facie, it appears that apart from the said 164 statement, there is no material to connect the Applicant with the alleged offence. Learned counsel for the Applicant submitted that even the 164 statement of the co-accused cannot be relied upon, in view of the settled law, as the said statement is self exculpatory and not inculpatory. He submitted that even otherwise, a perusal of the statement of the co-accused recorded under Section 164 of the Cr. P. C. shows that no role has been attributed to the Applicant in the commission of the offence. He submitted that the only allegation is that the Applicant alongwith other co-accused assaulted the deceased. Some other co-accused is alleged to have thrown a stone on the deceased's head, causing the fatal injury. No motive is alleged as against the Applicant to assault the deceased. The Applicant has no antecedents. Investigation is complete and charge-sheet is filed.

4. Considering the aforesaid and the material qua the Applicant, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

(i) The Applicant be enlarged on bail, on executing P. R. Bond in the sum of **Rs. 20,000/-** with one or two local sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned police station on the **first Saturday of every month** between **10.00 a. m. and 1.00 p. m.** for a period of 24 months from the date of his release;

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

(iv) 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;

(v) The Applicant to co-operate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(vi) The Applicant shall file an undertaking with regard to

Clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults either in attending the police station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

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

6. 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.

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

(REVATI MOHITE DERE, J.)