

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

CRIMINAL BAIL APPLICATION NO. 2550 OF 2019

Jakir Kadar Shaikh	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Ganesh Bhujbal, Advocate for the Applicant.
Smt. A. A. Takalkar, APP for the State/Respondent.
Mr. S. B. Patil, P.I. Karmala Police station, present.

CORAM :SARANG V. KOTWAL, J.
DATE :07th OCTOBER, 2019

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 450 of 2018 registered with Lonikand Police Station, Pune, under section 302 of the Indian Penal Code. The applicant was arrested on 21/04/2018 and since then he is in custody. The investigation is over and the charge-sheet is already filed.

2. The FIR was lodged on 19/04/2018 by one Mahesh Nalawade who was the son of deceased Hanumant Nalawade. He has stated in his FIR that on 19/04/2018, in the morning, at

around 11.00a.m. he received a phone call from the police station. He went to the water tank at Lonikand on Theoor Road because police wanted him to identify a dead body. The informant identified the dead body as that of his father Hanumant. He had suffered head injury and had died at that spot. On this basis, the FIR was lodged.

3. The Postmortem notes show that the deceased had suffered five injuries, out of which, three injuries on the head were in the nature of severe laceration. There was a lacerated wound over the neck of size 6cm x 2cm x muscle deep and there was one contusion over left side of upper chest. The cause of death was mentioned as, "Head injury. Viscera preserved for chemical analysis."

4. Heard Shri. Ganesh Bhujbal, learned counsel for the applicant and Smt. A. A. Takalkar, learned APP for the State.

5. Shri. Bhujbal submitted that the evidence against the applicant is circumstantial in nature. There are no eye witnesses and only circumstance held by the prosecution is recovery of two parts of a wooden stick, hacksaw blade and a key. However, none

of these articles can be linked or connected with the murder of the deceased. Besides these circumstances, there is a statement of the witness who had seen the applicant coming in a rickshaw with another person to purchase liquor and a heavy wooden log. However, there is no test identification parade held to enable this witness to identify the applicant nor it is the prosecution case that the person travelling with the applicant in rickshaw is shown to the witness for identifying the photograph of the deceased to establish that connection.

6. Learned APP opposed this application on the ground that recovery of weapon is a strong circumstance to connect the applicant and it is supported by C.A. report.

7. I have considered these submissions. As rightly submitted by Shri. Bhujbal, there are no eye witnesses to the incident. There is no motive brought forth by the prosecution as to why the offence was committed. The statements of witnesses showing that the applicant had purchased liquor and a hacksaw blade, as well as, a wooden log, do not take the prosecution case any further because there is no connection established between the

purchase of those articles and actual murder.

8. The pieces of broken wooden log were recovered on two different dates and from different places. First piece was recovered on 22/04/2018 from a bush near the water tank and second piece of wooden stick was recovered from a different place on 28/04/2018. On the second occasion, along with broken piece of wooden stick, hacksaw blade and key of the rickshaw were recovered. The C.A. report shows that the two pieces of those wooden sticks match with each other, however, that does not show that it was the murder weapon. There was no blood found on either of those pieces, therefore, recovery of such wooden stick does not help the prosecution case. The clothes of the applicant were recovered at his instance. The shirt shows disintegrated blood but its blood group could not be determined. The pant shows presence of blood but blood group was not conclusive. Thus, at this stage, there is very weak piece of evidence against the applicant, therefore, applicant deserves to be released on bail during the pendency of the trial.

9. Hence, the following order :

ORDER

- (i) In connection with C.R. No.450 of 2018 registered with Lonikand Police Station, Pune, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)