

SAS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2987 OF 2018

Sagar Sarjerao Patil

..Applicant.

V/s.

The State of Maharashtra

..Respondent.

Mr.Manoj Mohite I/b. Shantanu Phase and Ateet Mhambray for the applicant.

Ms.S.S.Kaushik, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : MARCH 6, 2019

P.C.:-

Heard learned counsel for the applicant and learned APP for the State.

2. After arrest on March 9, 2018 In crime No.219/2018 for offence punishable under sections 302, 307, 323, 506, 141, 143, 147, 148, 149, 120B of the Indian Penal Code, 37(1) and (3), 135 of the Bombay Police Act and section 4(25) of the Arms Act registered with Wakad police station, District Pune, the applicant is charge-sheeted.

3. The prosecution case is, on March 8, 2018 in the night,

co-accused Rohit, Ishwar, Shubham assaulted Rupesh.

4. F.I.R. does speak of the presence of the present applicant without naming him and without attributing any role to him.

5. Subsequent statements of eye witnesses though speaks of presence of the applicant on the spot of incident however, no specific overt act could be inferred from said statements of the eye witnesses.

6. There are no criminal antecedents against the applicant. The blood stained clothes are recovered from the applicant, however, report of the chemical analyser is inconclusive.

7. In the aforesaid background of evidence brought on record against the applicant, even if it is presumed that the applicant was present on the spot of incident, no specific overt act or use of weapon is attributed. The cause of death, as could be inferred from the post mortem report and the injuries suffered, are in the nature of incise wound and death caused by head injury.

8. As such, the role attributed to the applicant in the investigation cannot *prima facie* withstand the statements of eye witnesses and other evidence. As such, a case for bail is made

out. Hence the order :-

- i) The applicant be released on bail in Crime No.219/2018 for offence punishable under sections 302, 307, 323, 506, 141, 143, 147, 148, 149, 120B of the Indian Penal Code, 37(1) and (3), 135 of the Bombay Police Act and section 4(25) of the Arms Act registered with Wakad police station, District Pune upon furnishing P.R. bond of Rs.25,000/- with one or more sureties in the like amount;
- ii) The applicant shall not influence the prosecution witnesses or tamper with the evidence;
- iii) Till framing of charge, the applicant shall remain outside the jurisdiction of Wakad police station, District Pune;
- iv) The application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)