

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 3182 OF 2018**

Rakesh Hiranman Khopkar

.....Applicant

Vs.

The State Of Maharashtra

.....Respondent

Mr. Rahul Arote for the Applicant.

Mr. R.M. Pethe APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 18th APRIL, 2019.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 53 of 2018 dated 19th February, 2018 registered with Worli Police Station, Mumbai under Section 302 read with Section 34 of the Indian Penal Code.

2 Heard the learned counsel for the Applicant and the learned APP. Perused the charge-sheet.

3 The name of the deceased is Anil Bobde. The date and time of the incident is 19th February, 2018 between 2.15 to 2.50 a.m. near the Kamble Nagar, Dr. E. Moses Road, Worli, Mumbai. The Applicant is the brother-in-law of deceased. The co-accused Rohit @ Durgesh is the son of the deceased.

It is the prosecution case that, on 19th August, 2018 between 2.15 a.m. to 2.30 a.m. when the deceased had been to the house of his mother-in-law at Worli and was banging the door of her house in search of the Applicant who on earlier occasion had lodged complaint against the deceased for threatening and assaulting his sister i.e. the wife of deceased. The Applicant along with Rohit @ Durgesh, therefore, assaulted the deceased with Bamboo stick on various parts of his body and it is alleged that, subsequently the deceased fell down, Applicant hurled a stone on the head of the deceased. The said incident is witnessed by Mr. Pramod Singh, who has lodged the first information report.

During the course of investigation, the Applicant came to be arrested on 19th February, 2018 and after completion of investigation police have submitted the charge-sheet.

4 A perusal of charge-sheet would indicate that, Smt. Reshma the wife of the deceased has in detail narrated various atrocities committed by the deceased upon her and her sister. She has further narrated the fact of assault by the deceased on her son Rohit @ Durgesh, who is the co-accused in the present crime.

It is also stated that, on 16th February, 2018 i.e. two days

prior to the incident in question, the deceased had quarreled with the Applicant on the count that, the deceased had tried to outrage the modesty of sister of Reshma and non-cognizable offence is registered at the instance of Applicant herein. The record further indicates that, the Applicant had lodged complaint on 16th August, 2018 against the deceased.

5 The record further indicates that, the deceased was addicted to vices and use to consume various narcotics drugs and psychotropic substances and after consuming the narcotics drugs and/or substances, he used to beat his wife and son (co-accused).

6 On the date and time of the incident, the deceased had been to the house of the Applicant when his mother alone was present and thereafter, as noted earlier the deceased started banging the door of the said house in the wee hours on 19th February, 2018. It further appears that, sensing danger to the life of the mother, the Applicant who was outside the house, in exercise of his right of private defence, assaulted the deceased initially with a Bamboo stick. That, in the said assault, the co-accused namely Rohit @ Durgesh assisted him. It further *prima facie* appears that, as the Applicant could not control his fit of rage, after the deceased fell on the ground, he hurled a stone on

his head, which was lying adjoining to the said house. It is submitted that, there are no antecedents at the discredit of the Applicant.

7 In view of the above, the Applicant can be released on bail
Hence, the following order.

- a) The Applicant be released on bail in CR No. CR No. 53 of 2018 dated 19th February, 2018 registered with Worli Police Station, Mumbai on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.
- b) After his release from Jail, the Applicant shall attend all the dates before the Trial Court unless exempted by the concerned Court.
- c) Any two consecutive defaults in complying with the afore-stated condition will attract the provisions of cancellation of bail.
- d) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.
- e) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)