

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3207 OF 2018**

Mangesh S/o Babu Bable	...Applicant
Versus	
State of Maharashtra & Anr.	...Respondents

Mr. Ganesh Iyer I/b Ms. Archana Khan for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondents-State

PI Mr. Sanjay S. Pradhan and PI Mr. Rajesh Sardesai from Shahu Nagar Police Station, are present

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 1st AUGUST 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 12 of 2018 registered with the Shahu Nagar Police Station, Mumbai, for the alleged offences punishable under Sections 302, 323, 504, 34 of the Indian Penal Code.

3 Perused the papers. According to the complainant-Suraj, his cousin brother-Shankar (deceased) was residing with his family near his house. The applicant and co-accused-Soma were also residing in the

vicinity and that all of them were friends. According to the complainant-Suraj, the incident took place on 11th January 2018 when he and his cousin brother-Shankar (deceased) had gone to bring toddy at a toddy shop at about 7:30 p.m. He has stated that when they were drinking, his cousin brother-Shankar went somewhere, at which time, the applicant came to purchase toddy. The complainant has stated that the applicant purchased toddy from the shop and went somewhere. He has further stated that he heard some quarrel taking place, pursuant to which, he went out to see what had happened and noticed that Shankar (deceased) and the applicant were quarreling and were abusing each other. It appears that applicant held Shankar's shirt in order to save himself and thereafter freed himself and went from the spot. The complainant has stated that his cousin-Shankar felt exhausted and sat near the shop. He has further stated that at about 8:40 p.m, the applicant came to the spot along with his brother-Soma and that the applicant abused Shankar. He has further stated that co-accused-Soma assaulted Shankar with fist and kick blows and that the applicant pushed Shankar on the ground and tried to throttle him. He has further stated that he tried to intervene and shouted for help, pursuant to which, the workers came and separated them. He has stated that the applicant and

Soma went away from the spot and that Shankar was speaking in a low voice, after which, Shankar was taken to the hospital where he was declared dead.

4 The post mortem report of Shankar shows that the opinion with respect of the cause of death was reserved. Clause 17 of the post mortem report showed that Shankar had sustained an abrasion on his right knee and scratch abrasion on his left clavicular region. No internal injuries were noted. Learned A.P.P has tendered the cause of death of deceased-Shankar which states that Shankar died due to “cardiac arrhythmia following fight and fright associated with alcohol intoxication in an alleged case of assault (unnatural)”.

5 Whether or not the offence would be under Section 302 or a lesser offence, is a matter, which will be decided by the trial Court. The applicant is in custody since January 2018. Investigation is complete and charge-sheet is filed. The applicant has also filed an affidavit that he will not commit similar offence. The same is taken on record and is marked 'X' for identification.

6 Considering the aforesaid, the application is allowed on the following terms and conditions :

ORDER

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

- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;

- (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 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 cooperate 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.

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.