

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

CRIMINAL BAIL APPLICATION NO. 3291 OF 2018

Rajesh Motichand Gupta

... Applicant

Vs.

The State of Maharashtra

... Respondent

...

Mr. Aabad Ponda I/by Mr. Ashish R. Raghuwanshi for the applicant.

Mr. M.G. Patil, APP for the Respondent-State.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 17th JANUARY, 2019.

P.C.

1. This is an application for bail in connection with CR No. 157 of 2018 registered with Worli Police Station for the offence punishable under Section 302 of Indian Penal Code. The applicant is arrested on 6th June, 2018.

2. Prosecution case is that the applicant is elder brother of deceased Dinesh Gupta. Both were residing at same addresses. The applicant was residing on ground floor with his family. The victim was residing at the loft of the said room alongwith his family. The applicant was doing Pani Puri business, whereas deceased was selling milk, lassi etc. He used to sell milk products

at residence also and hence they used to quarrel with each other. On 5th June, 2018, victim had consumed liquor. At about 1.30 a.m. victim came on ground floor. There was quarrel between applicant and victim. Applicant hit the victim with utensil Zhara (spoon used for frying Pani-Puri) on his neck. The injured was taken to hospital where he was declared dead. The statement also indicate that the victim had poured water on applicant and told him not to sleep at the said place and if he is not in a position to adjust, he should leave with his wife and stay at Gandhi Nagar with Ganesh. Incident had occurred at the spur of moment and there is nothing to show that it was premeditated. The victim had come down from loft and picked up quarrel with applicant. Apparently single blow was given. On perusal of the Postmortem report it indicate that only one injury on the neck of the deceased and the opinion as to cause probable cause of death is due to shock and hemorrhage due to stab injury over left side of neck.

3. Learned APP submits that there was enmity between both brothers which have resulted into incident. Investigating machinery had recorded the statement of witnesses. The victim has died due to assault by applicant.

4 The incident had occurred due at spur moment as stated

above. There is nothing to indicate that there was intention to commit murder. On the date of incident there was exchange of words between applicant and his brother. The incident had occurred at about 1.30 a.m. Applicant is in custody from 6th June, 2018. Investigation is completed and chargesheet has been filed. Considering the aforesaid circumstances, bail can be granted to the applicant.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No. 157 of 2018 registered with Worli Police Station on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
- iii. Applicant is permitted to furnish cash security in the sum of Rs.25,000/- for a period of six weeks;
- iv. Applicant shall report to the concerned Police Station once in a month on first Saturday between 11:00 a.m. to 1:00 p.m. till further orders;
- v. Applicant shall attend the dates of hearing before the Trial Court, unless exempted by the Court;
- vi. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)