

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

BAIL APPLICATION NO. 1372 OF 2019

Lalu @ Dashrath Nayak Mudawat ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.Satyavrat Joshi, Advocate for the Applicant.

Mrs.A.A. Takalkar, APP for the State-Respondent.

Mr.P.V. Pise, Bharati Vidyapeeth Police Station, Pune City, Pune,
present.

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CORAM : PRAKASH D. NAIK, J.

DATE : FEBRUARY 20, 2020

PC :

1 The applicant is arrested on 31st July, 2018 in connection with C.R. No. 377 of 2018 registered with Bharti Vidyapeeth Police Station for offences punishable under Sections 302, 326, 504 and 506 read with Section 34 of Indian Penal Code ("IPC", for short). The First Information Report ("FIR", for short) was lodged on 31st July, 2018 by Smt. Lakshmi Mudawat.

2 The case of the prosecution is that the complainant Smt. Lakshmi Chandar Mudawat is the wife of deceased Chandar Mudawat. It is alleged that the complainant and her husband were

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working on daily wages basis with Shri. Ramu Mudawat and Lalu Mudawat. They worked with him for a period of about 3 years. Since last two years, the complainant's husband was accepting the work on his own. The complainant's husband and his friends had joined the "Bishi" conducted by Lalu Mudawat & Ramu Mudawat. The complainant's husband had deposited money in the Bishi. His friends Vitthal Chavan, Ramesh Chavan & Dashya had also joined the Bishi through complainant's husband. The friends of the deceased had availed of the facility of accepting money, however they were not depositing the monthly installments. Lalu Mudawat and Ramu Mudawat used to tell the complainants husband (deceased) that the above persons had joined Bishi through him and he should collect money from them. There used to be quarrels between complainant's husband and Ramu Mudawat. While Chandar was working with Ramu, there were dues of Rs. 1,33,000/- to be paid to Chandar by Ramu which were demanded by him from time to time. However, the amount was not paid and Chandar was told that unless he collects Bishi amount from aforesaid three persons, his dues will not be parted to him. It is further alleged that on 30th July, 2018 at about 6.00 p.m., the complainant and her husband Chandar had returned home. The sister of complainant was also with them. At about 9.30 p.m., Ramu Mudawat and Lalu Mudawat had entered into the house

of the complainant. Ramu was armed with wooden log which was used in spade. Both of them demanded Bishi amount which was due from the friends of Chandar and told him to make the payment immediately. The husband of complainant told the accused that on the next day they should settle the accounts, and at the moment they should go home. However, Ramu Mudawat and Lalu Mudawat abused Chandar and threatened him that he would be finished on the spot. At that time Ramu assaulted Chandar on his head by wooden log. The complainant and her Sister Sharda tried to intervene. Lalu took the wooden log from the hand of Ramu and assaulted complainant's sister on her back. At that time Ramu removed Sattur which was stuck to his waist and assaulted Chandar on his neck by giving blow of Sattur. The complainant tried to intervene. Ramu assaulted her by Sattur by giving blow on her head. Thereafter Lalu and Ramu both assaulted complainant's husband. The complainant shouted and called neighbours for help. Ramu and Lalu ran away from the spot of incident.

3 The statements of witnesses were recorded. Chandar was declared dead. Post-mortem was conducted. The accused were arrested. On completing investigation, charge-sheet was filed.

4 The applicant preferred an application for bail before the Court of Sessions. The said application was rejected by the learned Sessions Judge, Pune, by order dated 17th January, 2019.

5 The applicant has preferred this application for bail on several ground. Learned advocate for the applicant submitted that the applicant was not armed with any weapon. The incident had arisen on account of payment of money. There was no intention to commit murder. The applicant has not assaulted the victim by using the wooden log. The role attributed to the applicant is assault by fist and kick blows. The role of assaulting deceased by wooden log is attributed to the co-accused. The applicant is in custody from 31st July, 2018. Investigation is completed and charge-sheet is filed.

6 Learned APP submitted that the applicant and the co-accused had shared common intention to commit murder of the deceased. The applicant and the co-accused had entered into the house of the complainant. They were armed with wooden log. They had decided to kill the deceased, which is evident from their conduct. The deceased was assaulted by wooden log. He was also assaulted by Sattur by co-accused. Both the accused had shared common intention. The applicant had assaulted the other witnesses. Even after the assault by the co-accused, the applicant and the co-

accused assaulted the deceased by fist and kick blows. The conduct of the accused shows that they had shared common intention in committing murder. The statements of witnesses recorded under Section 161 as well as Section 164 of Cr.P.C. would indicate that both the accused were instrumental in committing the offence of murder. The Post-mortem report shows that the deceased had sustained about 16 injuries. Thus, bail may not be granted to the applicant.

7 I have perused the documents on record. The complainant has specifically stated that her husband Chandar (deceased) and the complainant were initially working with Lalu Mudawat & Ramu Mudawat. The husband of the complainant had joined the Bishi. His three friends had also joined Bishi. The friends of the Chandar had availed of cash facility but they were not paying monthly installments of the Bishi amount. It is also alleged that the dues of the applicant's husband in the sum of Rs. 1,30,000/- were not paid by the accused Ramu Mudawat. There were quarrels between Chandar and the accused. On the date of incident both the accused had entered into the house of the complainant. The complainant has stated that the Ramu was having wooden log used which is generally attached to the spade. They demanded the Bishi amount immediately. The accused Ramu Mudawat and Lalu

Mudawat abused the husband of deceased. Ramu Mudawat gave blow by wooden log on the head of Chandar. The complainant and her sister intervened. The wooden log from hand of Ramu and assaulted sister of the complainant on her back. At the same time Ramu took out the Sattur stuck to his vest and gave blow on the neck of Chandar. Complainant also assaulted by Ramu Mudawat with blow of Sattur on her head. Thereafter, both Lalu and Ramu assaulted complainant. Thus, the narration given by the complainant clearly shows that both the accused had shared common intention to assault the complainant and the other witnesses. The complainant has also stated the motive for committing the alleged crime. Learned counsel for the applicant had also contended that there is variation in the statement of the complainant recorded under Sections 161 & 164 of Cr.P.C. There is slight variation in the said statements, however, there is consistent version of the complainant that accused Ramu Mulawat had assaulted by wooden log and by Sattur and applicant had also participated in the assault. The statements of Sharda, sister of the complainant also supports the prosecution case. She has attributed similar role as stated by the complainant to the accused. The statement of the said witness was also recorded under Section 164 of Cr.P.C. Assuming that there are minor variations in the statements of witnesses, it is established that both the accused had

participated in the assault. It is pertinent to note that the victim Chandar had sustained about 16 injuries on his body. This itself shows that the assault is not by one person and both were instrumental in brutally assaulting the deceased. There are injuries in the nature of chop injury, contused, abrasion over neck, incised wound on frontal region, incised wound on parietal region, incised wound on left parietal occipital region, incised wound on parietal region in the middle, incised wound over left temporal region, incised wound over high parietal region, incised wound present over left occipital region and injuries over the other parts of body. Thus, it is apparent that the deceased Chandar was brutally assaulted, as a result of which he died. It can not be said that there was no intention to commit murder. The complainant had also sustained injury in the nature of CLW 7X1 c.m. on front parietal region with the blunt and hard object. Considering the aforesaid circumstances, no case for grant of bail is made out.

8 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No. 1372 of 2019 is rejected and stands disposed of accordingly.

(PRAKASH D. NAIK, J.)