

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

CRIMINAL BAIL APPLICATION NO.2881 OF 2019

Sandesh Prakash Muluk

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Veerdhaval Kakade, for the applicant.

Mr. S. H. Yadav, APP for the Respondent- State.

CORAM : PRAKASH D. NAIK, J.

DATE : 28th January, 2020

P.C.:

1. This is an application for bail under Section 439 of the Criminal Procedure Code. The applicant is arrested on 07th March 2019, in connection with C.R.No.77 of 2019. Initially, the offence registered under Sections 307 and 504 of the Indian Penal Code ('IPC' for short). However, on account of death of the victim Section 302 of the IPC was invoked.

2. Prosecution case is that on 06th March 2019, on account of property dispute, deceased who is the cousin of the applicant was assaulted by wooden stick. The blow was given by stick on the head

and back of deceased. After the assault, injured was taken to the hospital. On the next day, the victim succumbed to the injury.

3. Learned counsel for the applicant contended that, the incident had occurred at spur of moment. There was no pre-mediation. The wooden stick was lying at the scene of occurrence. During the quarrel between both, the stick was picked up by the applicant and deceased was assaulted. The postmortem report refers to injuries in the nature of CLW over occipital region right side, right temporal bone un-displaced and subdural hematoma along right cerebral hemisphere.

4. Learned APP submitted that, the blow was forcible which resulted in the death of deceased. There are eye witnesses to the incident. Specific role has been attributed to the applicant. Section 302 of the IPC would be attracted in this case. Apparently, there is dispute in partition of property between two families. On the day of incident, deceased who is the cousin of the applicant was assaulted with stick lying at the spot. The blows were given on the head and back of deceased. There is nothing to indicate that, there is injury on the back. However, in the head injuries are noticed. The applicant is young boy aged about 21 year and he is a student. There are no criminal antecedents looking at the manner in which

incident had occurred. There may not be intention to commit murder. The applicant is in custody from the date of his arrest. Charge sheet is filed. Considering the aforesaid circumstances, bail can be granted to the applicant.

ORDER

- (i) Bail application No. 2881 of 2019 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R.No.77 of 2019 registered with Khed Rajgurunagar Police Station, Pune on furnishing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iv) Applicant shall not approach/threaten the witnesses or relatives of deceased and shall not tamper with the evidence;
- (v) Applicant shall not enter into the vicinity of the house of deceased;
- (vi) Bail Application No.2881 of 2019 stands disposed of;

(PRAKASH D. NAIK, J.)