

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3557 OF 2019

Mohamed Vakil Mansabdar Shah Applicant

Versus

The State of Maharashtra Respondent

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Mr. Rahul Arote for the Applicant.
Mr. R. M. Pethe, APP for the State.

CORAM : A. S. GADKARI, J.

DATE : 16th JANUARY, 2020

P.C.

1. This is a successive application for bail. The earlier Bail Application No. 525 of 2019 preferred by the applicant was disposed off as withdrawn by this Court, by its order dated 22nd April, 2019, by granting liberty to the applicant to file an application for bail before the Trial Court, if the trial arising out of C.R. No.I- 110 of 2018 registered with Rabale M.I.D.C. Police Station, District Thane, now culminated in Sessions Case No.115 of 2019, does not commence within the period of six months from 22nd April, 2019. As the trial of the said case i.e. Sessions Case No.115 of 2019 did not commence within stipulated period, the applicant filed fresh application for bail below Exhibit-5.

The trial Court by its order dated 30.11.2019 has rejected the said application.

2. The record indicates that, even as of today, charge against accused in the said Sessions Case is not framed, inter-alia the trial has not commenced. Perusal of Roznama further indicates that, on several occasions, the case was adjourned due to non-production of the accused by prosecution agency, for the reasons best known to it. It may be one of the reasons for not commencing with the trial, by the trial Court.

3. I have heard learned counsel for the applicant and the learned A.P.P. for the State. Perused the entire charge-sheet.

4. The First information report is lodged by Somnath K. Pani, the father of deceased Santosh Pani. It is the prosecution case in brief that, the first informant had a tenant by name Azad Patel. Said Azad was working with the applicant in his scrap shop. The applicant did not pay his salary. The said Azad therefore made a grievance of the same with the applicant. It is alleged that, there was a quarrel between said Azad and applicant on account of payment of salary to Azad and the applicant lodged police complaint in that behalf. Azad made grievance of the same with the wife of first informant and she stated the said fact

to her son Santosh. First informant's son Santosh and Azad therefore, went to the applicant and questioned him about his act of non-payment of salary to Azad and lodging of police complaint. A tiff took place and during the said tiff, it is alleged that, the applicant pushed Santosh. Santosh fell on ground and his head hit on the concrete parapet wall of the nearby gutter. Santosh became unconscious at the spot and was thereafter, shifted to Hospital at Rabale. Doctor there directed to shift him to Government Hospital at Vashi. There, doctors of Government Hospital at Vashi declared him as dead. In the premise F.I.R. has been lodged.

5. A minute perusal of F.I.R. and the statements of witnesses would indicate that the applicant did not have intention to commit murder of Santosh. Prima facie, it further appears that, Santosh was the aggressor and due to push by the applicant, Santosh fell down and suffered injury to his head.

6. In view of the above, the applicant is entitled to be released on bail.

7. Hence, following order.

- (i) The Accused is directed to be released on bail in connection with C.R. No. I-110 of 2018, registered with Rabale M.I.D.C. Police Station, on his furnishing P.R. Bond in the sum of Rs.25,000/- with one or two solvent local sureties in the like amount.
- (ii) After his release from jail, the applicant shall report to the concerned Police Station once in a month, on every first Monday, between 11 a.m. to 1 p.m. till conclusion of trial.
- (iii) Accused shall not tamper with the prosecution witnesses and evidence in any manner.
- (iv) Applicant shall attend all the dates before the Trial Court unless precluded on medical grounds.
- (v) Application is allowed in the aforesaid terms.

(A. S. GADKARI, J.)