

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

LDVC CRIMINAL BAIL APPLICATION NO. 474/2020

Ajay S/o Manohar Sardar

-VERSUS-

State of Maharashtra

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri R. D. Wakode, Advocate for applicant.

Shri N. S. Rao, Additional Public Prosecutor for State.

CORAM : VINAY JOSHI, J.

DATE : JULY 20, 2020.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard.

3. The applicant is came to be arrested in connection with Crime No. 630/2019 for the offence punishable under Sections 302 read with Section 34 of the Indian Penal Code. The applicant has prayed for bail by claiming innocence and false implication. Additionally, it is

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argued that the Police paper nowhere discloses that it was pre-planned murder nor any dangerous weapon was used in commission of crime. Learned counsel for the applicant has criticized the delay in recording statements of some eye-witnesses while contending that in order to support the prosecution case, witnesses were foisted by Police. Learned Additional Public Prosecutor resisted bail by submitting that the offence is of serious nature and punishable upto death penalty. There are specific allegations against the applicant of assaulting deceased by means of wooden stick. The alleged act is heinous and bail is prayed to be rejected.

4. Alleged incident took place on 16.06.2019 at around 09.00 p.m. at residential house of informant and her deceased – husband. On miscellaneous difference of filling water in the cooler, co-accused – Abhishek has summoned his brother i.e. applicant Ajay and some other. At that

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time, the applicant assaulted deceased by means of wooden stick. Rest of the two co-accused beat deceased by means of fist blows and kicks. It is argued that as per FIR as well as statement of informant Mayabai, the applicant assaulted only on hands and legs of the deceased whilst the death is occurred due to head injury. He has pointed out that though there are statements of three eye-witness namely Jaishri, Manda and Kamala stating that applicant also assaulted on the head, however those statements were recorded after one month. True these statements are belatedly recorded for which the explanation has to be offered during the course of trial. Moreover, it is pointed out that these witnesses are residing at Santkabir Nagar, hence they are not the neighbour. Moreover, it is argued that though on the following day of the incident they came to know about the death of Narayan still they have not given their statements. While dealing with the bail application, I do not wish to go into the fact that these statements were

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belatedly recorded, however there appears to be prima-facie substance in the contention raised by the applicant.

5. It is argued that as per police paper, applicant Ajay arrived on the spot, picked up nearby lying wooden stick and allegedly assaulted. According to defence, these instances itself show that the incident was totally without pre-meditation. Certainly, said aspect equally assumes significance.

6. The applicant is young boy aged 20 years, already in Jail for the period of more than one year. Investigation is complete and charge-sheet is filed. Having regard to all these circumstances the applicant can be released on bail on certain conditions. Hence, following order:-

7. Bail application is allowed.

8. The applicant – Ajay Manohar Sardar is

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released on bail on his furnishing P.R. Bond of Rs. 25,000/- with one or two sureties in the like amount.

9. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.

10. The applicant shall provide his residential address and cell number to concerned Investigating Officer and he shall not change his place of residence without prior intimation to the concerned Investigating Officer.

11. This order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

Gohane.