

Digitally
signed by
RUPALI
RAJESH
WAKODIKAR
Date:
2021.10.05
16:20:20
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2450 OF 2021

Nilesh Sampat Rode	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Pratik Kalantri for the Applicant.

Ms. P.P.Shinde, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 4th OCTOBER, 2021

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 64 of 2021 registered with the Sinnar MIDC Police Station, Nashik, for the alleged offences punishable under Sections 302 r/w 34 of the Indian Penal Code.
3. Perused the papers. According to the prosecution, the incident took place on 17th February, 2021 between 4 to 4.30 p.m. The first

informant is the brother of the deceased – Sanjay. A perusal of the statement of Pratibha Sanjay Ugale, wife of the deceased – Sanjay, shows that her husband – Sanjay had come home after having consuming alcohol on 17th February, 2021 at about 4.00 p.m. The wife of the deceased has further stated Sanjay was abusing the children and asking them why they were visiting his brother - Vishnu's house. When Pratibha Told Sanjay not to abuse, he got annoyed and started abusing her, pursuant thereto, she called her brother Nitin Sanpat Rode. She has further stated that her brother – Nitin tried to explain to Sanjay, however Sanjay was not in a frame of mind to listen anything and started quarreling with Nitin. She has further stated that Nitin called Nilesh Rode (applicant) at about 4.30 p.m. and that he too started trying to explain to Sanjay. However, according to Pratibha, as Sanjay was not listening and started quarreling with Nitin, Nitin pulled out a wooden log and assaulted Sanjay with the same and the applicant is alleged to have held and assaulted the deceased with kicks and fist blows.

4. The first informant – Pratibha has further stated that as her husband – Sanjay started vomiting, Nitin picked him up and made him sleep in the house and after sometime, called his friend and took him to the hospital, where he was declared to be dead. *Prima facie*, it appears that the

applicant had no motive to kill the deceased. The incident appears to be taken place at the spur of movement, during the course of quarrel between the accused and the deceased. It also appears that the deceased thereafter, was taken to the hospital by co-accused - Nitin where he was declared to be dead. The applicant has no antecedents and the applicant is in custody since 19th February, 2021. Investigation is complete and chargesheet is filed and as such, further detention of the applicant is not warranted.

5. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;
- (ii) The applicant shall inform his latest place of residence and mobile contact number, if any, soon after being released on bail and/or if there is any change of residence or mobile details, time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (iii) The applicant to cooperate with the conduct of the trial

and attend the trial Court on all dates, unless exempted;

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

6. The application is allowed in the aforesaid terms and is accordingly disposed of.

7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.