

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

CRIMINAL BAIL APPLICATION NO. 1739 OF 2020

Bhola Shambhuprasad Gupta ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. M. J. Bhatt, Advocate for the Applicant.

Ms. M. R. Tidke, APP for the Respondent – State.

Mr. Sanjay Narayan Patil, Bhoiwada Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 16th MARCH, 2021

PER COURT:

1. The applicant is seeking bail in C.R. No. I-210 of 2019 registered with Bhoiwada Police Station, Bhiwandi, Mumbai for offences under Sections 302 and 326 r/w Section 34 of Indian Penal Code (for short “IPC).

2. The prosecution case is that the complainant Sangita Mourya is the sister of the deceased. On 11th June, 2019 at about 1.00 a.m. the deceased Jokhaiprasad Mourya who, was mentally unstable entered into the premises of Ajantha Compound, Bhiwandi. He was assaulted by some persons. He was treated in the hospital. He expired on 13th June, 2019. The First Information Report (for

short “FIR”) was initially registered with Bhoiwada Police station on 12th June, 2019 for offence under Section 326 r/w Section 34 of IPC. Subsequently, Section 302 was added.

3. The applicant preferred an application for bail before the Sessions Court. The said application was rejected by order dated 7th December, 2020.

4. Learned Advocate for the applicant submitted that there is delay in lodging in FIR. The applicant is not named in the FIR. Section 302 of IPC is not applicable. The applicant was arrested on suspicion. There is no recovery of any weapon from the applicant. The co-accused are granted bail.

5. Learned APP submitted that the victim was assaulted by the accused. The applicant was present at the spot of incident. He tied the legs of the deceased and assaulted him with wooden stick.

6. The victim was assaulted for unknown reason. The eye witnesses have stated that the victim was initially assaulted by fist and kick blows. He managed to escape. He was tied and assaulted by wooden stick. The co-accused Bharat Bhai Shankardas Patel was granted bail. Majid @ Mulla Abdul Rashid Chavan has been granted bail. Assuming the case of the prosecution to be true it does not appear prima facie that there was any intention to commit murder.

Investigation is over. The applicant is in custody for substantial period. Hence, bail can be granted to the applicant.

ORDER

- (i) Criminal Bail Application No. 1739 of 2020 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. I-210 of 2019 registered with Bhoiwada Police Station, Bhiwandi, on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report concerned Police Station once in a month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- (iv) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)