

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3768 OF 2021

Sagar Popat Londhe

..Applicant

V/s.

The State of Maharashtra

..Respondent

Mr. Milind Deshmukh for the Applicant.

Mr. N.B. Patil, APP for the Respondent/State.

CORAM : C.V. BHADANG, J.

DATE : 17 MARCH 2022

P.C.

1. The Applicant along with co-accused has been chargesheeted for the offence punishable under Section 302 read with Section 34 of IPC in Crime No. 271 of 2020 registered with Police Station Phaltan Taluka, District Satara.

2. The aforesaid crime is registered on the basis of the complaint dated 18.05.2020 lodged by Ashok Gavade. According to the informant on 18.05.2020, he was sitting alongwith Pandurang Jadhav and Amar Gavade in Mahadeo Temple at village Barad, Taluka Phaltan, District Satara. At about 3.00 p.m., the present Applicant along with co-accused Savkar Londhe and the deceased Balu Namdeo Gavade came and sat

near the temple. At about 4.30 p.m., a quarrel and altercation ensued amongst the Applicant and the co-accused Savkar Londhe on one side and the deceased on the other as the Applicant and the co-accused were saying that the deceased was not parting with money in order to enable the Applicant and the co-accused to drink the liquor. Saying this, the Applicant and the co-accused started assaulting the deceased Balu Namdeo Gavade by kick and fist blows. Insofar as the present Applicant is concerned, it is alleged that the Applicant took a wooden log lying near the temple and assaulted the deceased on his head multiple times. The allegation against the co-accused Savkar Londhe is that he assaulted the deceased with bricks etc. As a result of the assault, Balu Gavade sustained injuries on his head and died on the spot, after which, the Applicant and the co-accused, fled from the spot. On the basis of such complaint lodged, the offence came to be registered and after the investigation, a chargesheet is filed.

3. I have heard the learned counsel for the Applicant and the learned APP. Perused record.

4. It is submitted by the learned counsel for the Applicant that there was no intention on the part of the Applicant, nor any premeditation to cause the death of Balu Gavade. In the submission of the learned counsel for the Applicant, the incident happened on the spur of the moment, as there was an altercation

between the Applicant and the co-accused on the one hand and the deceased on the other. He, therefore, submitted that the prima facie, the offence under Section 302 of IPC is not made out.

5. The learned APP submitted that there was no provocation which can be said to be offered by the deceased and therefore, it cannot be said that the incident happened on the spur of the moment. He submits that there is direct evidence of the eyewitnesses attributing specific assault by the Applicant on the deceased on the head which is corroborated by the postmortem report. The learned APP also pointed out that this Court has refused to grant bail to co-accused Savkar Londhe by an order dated 10.03.2021 in Bail Application No. 3265 of 2021.

6. I have considered the circumstances and the submissions made.

7. Prima facie it appears that there is eyewitnesses account of the assault on the deceased. The first informant is also an eyewitness to the assault, who states that the Applicant assaulted the deceased on the head by wooden log lying near the temple. The learned APP is right that prima facie the record does not disclose that there was any provocation offered by the deceased inasmuch as the quarrel/altercation started when the Applicant

and the co-accused were annoyed on account of the fact that the deceased was not giving money to them for drinking liquor. This can be said to be any thing, but a provocation to assault the deceased. The postmortem report shows the cause of death as head injury which is prima facie attributable to the assault by the Applicant on the head of the deceased. Thus, the contention that there was no intention to cause death cannot prima facie be accepted at this stage. In the result, no case for grant of bail is made out.

8. The criminal application is rejected.

9. It is made clear that the observations herein are essentially of a prima facie nature and the learned Sessions Judge shall not be influenced by the same at the trial.

(C.V. BHADANG, J.)