

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 535 OF 2021

Abhichandra @ Abhiram Harishyam .. Applicant
Podh

Versus

The State of Maharashtra .. Respondent

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Mr.Prashant Pandey a/w Pradeep Singh, Suraj Singh, Vipul Chakral, Harshita Shroff, Ravindra Nagar Koti i/b W3 Legal for the applicant.

Smt. Anamika Malhotra, APP for the State.

Mr. S.R. Salunke, PSI, Kurar Police Station.

CORAM: BHARATI DANGRE, J.

DATED : 26th JULY, 2022

P.C:-

1 The applicant is charge-sheeted for the offence punishable Sections 302 and 182 of IPC in C.R.No. 125 of 2020. He came to be arrested on 7/3/2020 and is being tried in Sessions Case no. 281 of 2020 for the said charges.

2 The incident which resulted in arrest of the applicant is alleged to have taken place on 6/03/2020 at around 10:00 p.m when the complainant, who was working as an Electrician on a construction site was preparing to go for sleep. At that time, he overheard loud abuses and quarrel from 4th floor of 'C' wing, and when he ran on the staircase, he noticed that a brawl was going on between the deceased and the applicant in front of the

staircase duct and other labours had also gathered there.

He noticed the deceased flashing light on the face of the applicant from his mobile phone torch, and this irked the applicant, who asked him why he is indulging himself in such an act. At that moment, the applicant pushed the deceased in the duct of the lift. Resultantly, he banged on the ground floor in water and was found to be dead, when his body was pulled out from the duct.

3 The investigation was initiated and during this course statement of several persons who were present on the spot are recorded. The cause of death was ascertained as on account of Blunt Trauma to Chest. However, final opinion was reserved.

4 The charge-sheet compile statement of various witnesses, attributing the applicant with an act of pushing the deceased in the duct of the 4th floor, which landed him on the ground floor and he is alleged to be responsible for his death.

5 The learned counsel for the applicant would submit that even assuming that the version of the prosecution case is truthful and at the time of trial, all these witnesses confirm their statement given to the police, still the act cannot be said to invite a punishment under section 302 IPC. He would submit that the incident took place all of a sudden, without an premeditation, and the applicant pushed the deceased to the duct, and had no knowledge that he would immediately land in the duct and banged himself on the ground floor. There was no intention to cause such bodily injury as would be likely to cause his death and, therefore, at the most, he would be liable for conviction of

Part II of section 304, is the submission.

6 The said argument will have to be appreciated in the light of the material compiled in the charge-sheet and when the consistency in the version of the witnesses is perused, each witness has narrated that the applicant pushed the deceased being unaware, whether there was any protective mesh in the duct and not knowing he would straightaway land on the ground floor.

7 Considering that the applicant has been arrested in 2020 and he has already undergone more than 2 years of imprisonment, with no antecedents reported, the applicant deserve his release on bail.

This is however subject to the stipulation that the applicant is a resident of State of Orrisa, he shall make himself available for the trial and without permission of the concerned Sessions Court who is seized of the Sessions Case No. 281 of 2020, he shall not leave the State of Maharashtra.

: ORDER :

- (a) Application is allowed.
- (b) Applicant – Abhichandra @ Abhiram Harishyam Podh shall be released on bail from in connection with C.R.No. 125 of 2020 registered at Kurar Police station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from

disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.

(d) The applicant shall mark his attendance to the concerned police station on every Saturday between 3:00 p.m to 5:00 p.m.

(e) The applicant shall not leave State of Maharashtra without prior permission of the Sessions Court.

(f) Upon his release on bail, the applicant furnish his contact number, and address where he proposes to live/work on being released on bail.

(SMT. BHARATI DANGRE, J.)