

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.531 OF 2021

Lavkush Mangaru Prajapati] ... Applicant

Vs.

The State of Maharashtra] ... Respondent

...

Mr. Sandeep Mishra for the applicant.

Mr. S.V. Gavand, A.P.P. for the State.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 12TH JULY, 2022.

P.C.:-

1. The applicant is a young person aged 19 years and is charge-sheeted under Sections 302, 323, 504 and 506 of the IPC for causing death of one Wasik Khan.

2. The applicant came to be arrested on 08/12/2018 and though the charge-sheet is filed, it is stated that the charge has not been framed till date.

3. The complainant is the father of the deceased, who lodged a report to the police station on 08/11/2018 in respect of an incident which took place on 05/11/2018. The complainant had stated that his family is acquainted to the present applicant, who was residing in the same chawl. The complainant was running a Service Centre and, the area in which the applicant is residing, shared a common pipeline and, in order to cater to the need, the water is stored in a cement tank. In order to make the water available to the people residing in the chawl, at times, the applicant used to visit the Service Centre and disconnect the pipe from the cement tank and connect it to the pipeline supplying water to the chawl.

4. On 05/11/2018, since the water in the cement tank was exhausted, the son of the informant Wasik disconnected the connection to the chawl and this agitated the present applicant. He questioned him and was abusive. At that time, the informant and his two other sons tried to pacify, but were unsuccessful. He went towards the chawl and brought an iron rod to the Service Station and hit his son Wasik on his head.

5. The complainant reported the incident on 08/11/2018, since his son succumbed to the injuries, despite a surgery being performed on his head.

6. The charge-sheet compiled the material against the present

applicant, which includes statements of various witnesses, who have witnessed the actual incident and attributed the same role to the applicant as was done by the informant in his complaint. The postmortem report placed on record referred to blunt trauma in column No.17 and referred to an operation being done and noted the chips along the incision line. Column No.19 refers to skull bone on right side parietal bone removed, as there was hematoma and there was oozing from right parietal cortex of brain. It also noted scalp suture and chips incision shape on the head.

7. The material compiled in the charge-sheet *prima facie* refer to his involvement in the death of Wasik. Further, the statement of witnesses recorded under Section 164 of the Cr.P.C. i.e. one Sohan Mahato also corroborates the case of the prosecution, though the statement of another witness compiled in the charge-sheet, Joginder Paswan, has stated that he has not identified the applicant.

8. Learned counsel for the applicant would submit that the applicant is a young boy, aged 19 years, and he has already incarcerated for last four years, awaiting his trial and even the charge has not been framed. Apparently, the trial will take some time. Learned counsel would submit that the applicant has no intention to cause death of Wasik and, as can be seen, there is no previous enmity between them, but the act of Wasik hurt him and

he brought a wooden rod and assaulted him on his head and, therefore, at the most he would be liable for conviction under Section 304 Part II of the IPC.

9. Considering the young age of the applicant, being 19 years, and since the trial is likely to consume considerable time, I am inclined to release him on bail, subject to the stipulation that he shall not step into Bhiwandi area, District Thane, where the complainant and his family is residing. Any breach of the said condition on part of the applicant, shall denude him of the liberty conferred upon him and the complainant is at liberty to approach this court seeking cancellation of the bail.

ORDER

- (a) The applicant – **Lavkush Mangaru Prajapati** shall be released on bail in C.R. No.I-160 of 2018 registered with Kongaon Police Station, District Thane on executing P.R. bond to the extent of Rs.25,000/- and furnishing one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.

(c) The applicant shall report to the Kongaon Police Station, Dist. Thane on first Saturday of every month during the course of the day.

(d) The applicant shall remove himself from Bhiwandi, District Thane and continue to reside at some other place, till the trial is concluded. However, he is permitted to enter Bhiwandi for the purpose of reporting to the police station, as ordered above.

10. The application is allowed in the aforestated terms.

11. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]