

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 815 OF 2021

Govinda Teras Yadav .. Applicant
Versus
The State of Maharashtra and anr .. Respondent
...

Mr. C.K. Talekar for the applicant.
Mr. S.H. Yadav, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 25th JULY, 2022

P.C:-

1 The applicant is incarcerated in connection with the incident dated 26/09/2015 which resulted in registration of CR No 446 of 2015 at Dahisar Police Station invoking sections 302, 109, 324, 504, 506 (II) of IPC and section 4, 25 of the Arms Act.

2. The applicant was arrested on the very same day of the incident and on being charge-sheeted is awaiting trial.

 The counsel for the applicant submit that despite lapsing of seven years, till date even charge is not being framed and with the list of 20 witnesses cited by the prosecution, the trial is likely to consume long period.

3. When the charge-sheet filed at the applicant is perused, it can be seen that the complainant Manish Chouby, reported to the

police station, that the deceased and the applicant are resident of the same locality and in the past on account of some quibble, they had a fight.

On 26/09/2015 at between 10:00 p.m to 10:15 pm, the applicant was noticed causing damage to his own Swift Desire Car and according to the complainant he was in an inebriated condition and was abusive. When the complainant sought to interfere he was also abused. While he was indulging into this Act, several persons gathered on the spot and on noticing at Vijay Yadav, it is alleged that the applicant in the background of the earlier tiff, started abusing him. He was however found to be in an intoxicated condition and all of a sudden he took out the knife from back pocket of his pant and rushed on towards Vijay Yadav, and stabbed in his left rib as a result of the blow Vijay fell down with a bleeding injury. It is alleged that the applicant left the spot by threatening the crowd not to intervene.

4. Upon the FIR being filed, the investigating machinery was set into motion and inquest panchnama was prepared, which refer to one stab injury of 3 x 3.1 x 5 c.m, on the left portion below the chest of the deceased.

The postmortem report ascertained the cause of death to be on account of the said injury.

5 Statement of eye witnesses, are recorded during investigation which corroborate the version of the complainant

that the applicant assaulted the deceased by means of a knife and one stab injury was responsible for his death. On completion of the investigation the entire material is compiled in the charge-sheet, which prima facie indicate towards the applicant, being responsible for the death of Vijay Yadav.

6. Despite the seriousness of the accusations faced, the applicant is awaiting his trial for last 7 years and even the charge is not framed. It is right of every accused to expect a speedy and fair trial and in this case he is waiting to be tried and despite 7 years, the charge is not framed. The Hon'ble Apex Court in the latest decision of Satendra Kumar Antil Vs. CBI, 2021 (10) SCC 773, has again reiterated that delay in trying an accused would entitle him to the benefit of he being released on bail, and once again reiterated the well known principle to the following effect :-

“Liberty is one of the most essential requirements of the modern man. It is said to be the delicate fruit of a mature civilization. It is the very quintessence of civilized existence and essential requirement of a modern man”

7. In the wake of the aforesaid observation since the applicant is incarcerated for 7 years and when specifically asked whether applicant has any antecedents, the learned APP answered in the negative.

The applicant is entitled for being released on bail, this is however subject to the condition that he shall not continue to reside in Dharkhadi, Dahisar till the conclusion of the trial.

ORDER

- (a) The Applicant Govinda Teras Yadav in connection with C.R.No. 446 of 2015 registered with Dahisar Police Station shall be released on bail on furnishing P.R. bond to the extent of Rs. 25,000/- with 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 so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.
- (c) The applicant shall attend the trial on regular basis and since it is informed that framing of charge is fixed on 28/07/2022 and he shall abide by the direction issued by the concerned court.
- (d) The Applicant shall make himself available as and when required by the Investigating Officer.
- (e) He shall not enter the jurisdiction of Dahisar Police Station.

8. The Application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)