

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

BAIL APPLICATION NO.765 OF 2022

Nimesh Vilasgir Gosavi	 Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. V.D. Kadam for the Applicant.
Ms. Veera Shinde, APP for the State.
Ms. Shivani, Ghoti Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 28th NOVEMBER, 2022.

P. C. :-

. This is an Application under section 439 of Cr.PC. filed by the aforesaid Applicant who is facing trial in Sessions Case No.165/2021 pending on the file of Additional Sessions Judge, Nashik for offences punishable under sections 302, 323 and 504 of the Indian Penal Code.

2. Heard Mr. Kadam, learned counsel for the Applicant and Ms. Shinde, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. Crime against the Applicant was registered pursuant to the First

Information Report (FIR) lodged by Jyoti @ Anita Ashok More. The case of the prosecution in brief is that on 13/01/2021, at about 04:00 p.m., the Applicant who is the brother of Ushabai Gosavi came to the spot and caught hold of the collar of Ashok and assaulted him with fist blows and that he banged his head on the floor. Said Ashok was unconscious. He was taken to the hospital and was declared dead. The post mortem report reveals that there were no external injuries over the body. There was no injury under the scalp. Brain was oedematous and congested. Subarachnoid haemorrhage present whole cerebral hemisphere as red thin film. Doctor has opined that the death of the deceased Ashok was due to intracranial haemorrhage.

4. The material on record prima facie reveals that the death of deceased Ashok was homicidal and that the Applicant was involved in causing his death. However, at this stage, it cannot be said with certainty that the accused had banged the head of the deceased with an intention of causing his death. Be that as it may, whether the act of the Applicant constitutes offence under section 302 or 304 of the Indian Penal Code is a matter of trial. The Applicant is in custody since 13/01/2021. It is stated that charge is not yet framed. The trial is not likely to conclude in immediate future.

5. Considering the above facts and circumstances, in my considered view, the Applicant is entitled for bail. Hence, the Application is allowed on the following terms and conditions :-

- (i) The Applicant who is facing trial in Sessions Case No.165/2021 pending on the file of Additional Sessions Judge, Nashik, is ordered to be released on bail on furnishing P.R. bonds in the sum of Rs.30,000/- with one or two solvent sureties in the like amount ;
- (ii) The Applicant shall report to Ghoti Police Station on every 1st Monday of the month between 11.00 a.m. to 02.00 p.m. till framing of the charge ;
- (iii) The Applicant shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

(v) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

6. Bail Application stands disposed of in above terms.

PREETI
H JAYANI

(SMT. ANUJA PRABHUDESSAI, J.)

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