

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1006 OF 2022

Sandesh Jagdish Dingra .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr.B.A. Lawate for the applicant.
Mr.S.V.Gavand, APP for the State.
PSI Mr.N. Gaikwad from Powai police station.

CORAM: BHARATI DANGRE, J.
DATED : 30th AUGUST 2022

P.C:-

1 The applicant is charged for the offence of murder of one Ganesh Pradhan. A charge-sheet has been filed, which accuse him of doing him to death on 21/9/2018, by hitting him with a stone. He came to be arrested on 22/9/2018 and on an earlier occasion, the application filed by him was withdrawn and hence, he has preferred the application for the second time.

 The prosecution case in the charge-sheet, has surfaced through one eye witness, Pratip Bangera who was a third person present along with the applicant and deceased, as they were acquainted with each other, and on 21/9/2018, they decided to consume liquor. They chose the BMC Pipeline as the site for their

venture and with all the accompaniments, they reached there. As per the eye witness, when they were consuming liquor, some quibble ensued between the applicant and the deceased, and according to him, Sandesh pushed Ganesh, as a result of which, he fell down from the pipeline. Sandesh followed him and even the eye witness also came on the lower portion of the pipeline and it is the version of the witness that while Ganesh was making an attempt to get up, Sandesh picked up a stone from the spot and hit him in his head. When Pratip attempted to intervene, he was asked to leave the place immediately and in his presence, the applicant hit Ganesh twice in his head which resulted into a crushing injury to his head. He attempted to pick Ganesh, but he was half dead and he was unable to help him. He, therefore, immediately left the spot and was threatened by the applicant that he should not disclose the incident to anyone.

2 The post mortem report compiled in the charge-sheet in column no.17 refer to 8 injuries out of which four are contusions and injury no. 6 and 7 is the lacerated wound with the crushing of underlying tissues, muscles vessels and nerves. Column no.6 and 7 also refer to fracture of the underlying wounds, into multiple pieces with irregular markings. Injury no.8 is another laceration on the left malar region affecting the tissue, muscles, vessels and nerves. Column no.19 refer to 'Under scalp hematoma present on the left fronto temporal region'. As far as the position of skull is concerned, it record that there is a

Depressed fracture present on left fronto-temporal region of 9 cm x 9 cm with underlying bone fracture in multiple pieces. The fracture line is extending into middle cranial fossa.

Contusion is also noticed at the base of the brain along with left fronto temporal region.

The cause of death has been ascertained as “Head injury”.

3 Though the learned counsel for the applicant would vehemently press into service his long incarceration and he would also argue that there was no intention to kill the deceased, I am unable to persuade myself to accept his submission.

Looking to the injuries mentioned in para 17 and 19 of the post mortem report, and since these injuries have resulted in death of the deceased, coupled with the statement of the eye witness, who has categorically narrated that the applicant hit the deceased with a stone and crushed his head, by hitting him on three occasions, I think that the prosecution has prima facie made out a case of homicide and ultimately it will be at the time of trial, the applicant would be entitled to stake his claim of being intoxicated, if it is permissible to raise such a claim.

Apart from this, the learned APP state that the applicant has nine antecedents to his credit largely of bodily offences.

Apart from this, prohibitive action has been initiated against him on two occasions and he was externed under the Maharashtra Police Act.

4 The learned counsel for the applicant has vehemently submitted that mere antecedents cannot be a ground to deny him his release. I must only clarify that looking to the nature of antecedents, coupled with the *prima facie* offence made out against him in the charge-sheet, the applicant do not deserve his release.

Application is rejected.

(SMT. BHARATI DANGRE, J.)