

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1488 OF 2022

Parag Pandurang Tambe	]	..	Applicant
vs.			
State of Maharashtra	]	..	Respondent

Mr.Rajendra Shirodkar, Senior Advocate a/w Archit Sakhalkar and Nihar Ghat for the Applicant.

Mr.S.V. Gavand, APP for the State.

ASI A.T.Kaday, Wadala TT Police Station present.

CORAM : BHARATI DANGRE, J

DATE : 17th OCTOBER, 2022.

P.C.

1] The Applicant came to be arrested on 28.05.2021 on being accused of causing death of one Anish Kanojiya, brother of the complainant, which resulted in registration of CR No.230/2021 invoking Sections 302, 324, 326, 341 read with 34 of the Indian Penal Code.

2] With the assistance of the learned senior counsel for the applicant and the learned APP, I have perused the charge-sheet.

The subject CR came to be registered on the complaint filed by one Omkar Kanojiya, who state that on 26.05.2021 he noticed that his brother Anish, aged 24 years was having extreme pain and when he went closer to him, he could notice scratch marks on his hands and back and also on the legs and chest portion.

When inquired, the injured informed the complainant that he was assaulted by the present applicant and Lakhan Kanojiya by bat and stump. When asked about the cause, the informant stated that it was on account of an accusation that he was after Parag's sister in law and in order to teach him a lesson, he was assaulted. After the incident was reported, he succumbed to the injuries on 01.06.2021, while he was undergoing treatment.

3] The post-mortem report placed on record, note 6 injuries which are in the form of contusions and abrasions. Contusions are noticed on his left upper back, over left arm posterior aspect from upper 1/3rd to lower 1/3rd, involving whole posterior aspect of arm as well as right side of back. Multiple contusions are noticed over bilateral arm.

The cause of death is opined as "Shock due to multiple injuries (unnatural). However, final opinion came to be reserved which was received on 02.06.2021 and it reads thus : "Shock due to multiple contusion injuries over back and both arms (unnatural)."

When Column No.17 is perused, it cannot be said that the injuries are sustained on the vital parts of the body and it is also noticed that the deceased has succumbed to the injuries five days, thereafter. Hence, ultimately burden will lie on the prosecution to establish that the injuries sustained by the deceased are authored by the Applicant and these injuries have resulted into his death.

4] The investigation being complete and material against the Applicant being compiled in the charge-sheet, he deserves to be released on bail.

5] The learned APP has opposed the application on the ground that

there are 5 CRs registered against the Applicant.

The learned counsel for the Applicant would state that as far as CR No.273/2010 is concerned, the Applicant is acquitted of the charge and in all other CRs he is enlarged on bail.

6] In the wake of above, I do not think that the antecedents in the form of criminal proceedings is a sufficient ground to detain the Applicant who shall take the consequences of the charges levelled against him at the time of trial.

7] The observations made above are prima facie in nature and limited for the purpose of determination of the present Application and the learned Judge trying the Applicant for the offences, with which he is charged, shall not in any manner be influenced by the above order.

Hence, the following order :

ORDER

(a) Application is allowed.

(b) Applicant – Parag Pandurang Tambe shall be released on bail in CR No.230/2021 registered with Wadala Truck Terminal Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

The Applicant shall be released on cash bail of Rs.25,000/- for a period of six weeks in lieu of sureties. During the said period the applicant shall arrange for the sureties.

(c) The applicant shall report to the concerned Police Station as and when called for.

(d) 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 and should not tamper with evidence.

(e) The Applicant shall regularly attend trial, on every date, unless exempted.

[BHARATI DANGRE, J]