

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

BAIL APPLICATION NO.1560 OF 2020

Amol @ Vicky Dilip Suryavanshi

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Mr. M.S. Mohite, Senior Advocate i/b. Mr. A.A. Jadhavar with Mr. Sachin Hande for Applicant.

Ms A.A. Takalkar, APP for Respondent-State.

Mr. Sagar Takale, APMC police station, Navi Mumbai.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 28th MARCH, 2022.

P.C.:-

1. This is an application for bail filed by the aforesaid Applicant, who is facing trial in Sessions Case No.509 of 2020 pending before Sessions Court, Thane, for offences punishable under Sections 302, 504 and 506 (2) of the IPC.

2. Heard Mr. M.S. Mohite, learned senior counsel for the Applicant and Ms A.A. Takalkar, learned APP for Respondent -State. Perused the records and considered the submissions advanced by learned counsel for the respective parties.

3. The case of the prosecution in brief is that during the intervening night of 6th and 7th February, 2020 there was an altercation between the Applicant and the deceased Rakesh. It is alleged that the Applicant gave a blow of Spanner on Rakesh's neck, as a result of which he sustained injury. He was shifted to the hospital on the following day. He expired in the hospital about 7 days thereafter.

4. The crime against the Applicant came to be registered pursuant to the FIR lodged by the mother of the deceased. Statements of Javed Shaikh, Piyush Wanare, Nitesh Shetti and Gautam Alwa prima facie indicate that the Applicant and the deceased were friends. On the relevant date they had consumed alcohol and were abusing and fighting with each other under the influence of alcohol. The statements of these eye witnesses prima facie indicate that the Applicant had given a blow of spanner on the neck of the deceased, after which the deceased had fallen down. The deceased had refused to go home and he was made to sleep in one Anya Lodge. His condition deteriorated and hence he was admitted to the hospital, the next day. He expired on 13/02/2020. The post mortem report reveals that there was swelling and contusion over neck posteriorly. The post mortem report reveals that there was fracture dislocation of C₅ - C₆ cervical vertebrae. The doctor has opined that death

was caused by shock due to injury to cervical spine.

5. As noted above, the Applicant had inflicted a single blow on the neck of the deceased. The said injury has resulted in fracture of C₅ and C₆ vertebrae, which are located in the lower portion of cervical spine (upper back & neck). The deceased had expired about 7 days after the said incident of assault. Prima facie, the question whether the Applicant had intention to cause his death and / or had knowledge that the injury would result in death, is a matter of trial. The Applicant is in custody since 14/02/2020. Though the charge sheet is filed, the charge is not yet framed. Considering the nature of accusations against the Applicant, in my considered view this is not a fit case to detain the Applicant in custody pending trial, which is not likely to conclude in immediate future due to large pendency of cases. The Applicant is a permanent resident of the State. Hence, there is thus no possibility of the Applicant absconding and /or thwarting the course of justice.

6. Under the circumstances, the application is allowed on the following terms and conditions:-

- (i) The Applicant is ordered to be released on bail on furnishing bail bonds of Rs.50,000/- with one or

two solvent sureties to the like amount.

(ii) The Applicant shall report to the APMC Police Station on first Monday of every month between 11.00. a.m. to 2.00 p.m., until further orders.

(iii) The Applicant shall keep the investigating officer informed of his current address and mobile contact number and /or change of residence or mobile details, if any, from time to time.

7. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

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