

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4115 OF 2021

Ramsurat Babhairam Jaiswal	]	..	Applicant
vs.			
State of Maharashtra	]	..	Respondent

Mr. Shailesh Kharat for the Applicant.

Mr. H. J. Dedhia, APP for the State

CORAM : BHARATI DANGRE, J

DATE : 18th OCTOBER, 2022.

P.C.

1] The Applicant is septuagenarian, who seek his release on bail on the ground that the material compiled in the charge-sheet would reveal that the assault on the deceased was in self defence, as the deceased was drunk and had set plastic table on fire and was in aggressive mood.

2] I have heard the learned counsel for the Applicant and the learned APP for the State and perused the charge-sheet placed on record. The three statements compiled in the charge-sheet would reveal the happenings of the incident dated 08.05.2021, reflecting the conduct of the deceased.

Kum. Sheejal Jaiswal, the sister of the deceased has disclosed that her brother was addicted to liquor and on 08.05.2021 at 7.30 a.m.

while she alongwith her parents were present in the house, she noticed that her brother Sushilkumar who was under the influence of liquor had set on fire a plastic table, which was made for keeping vegetables. The deceased was in inebriated state. Her father and uncle pacified him and took him on mezzanine floor. The uncle left after some time and quarrel again ensued between the Applicant and deceased. A specific statement of Sheejal is to the effect that the deceased rushed towards her as well as her parents. Her father tried to pacify, but he was in aggressive mood and he said that he would finish them. At this moment, her father picked up an iron pipe from the house and assaulted him, which resulted into his death.

3] The postmortem report has ascribed the cause of death as "Death due to hemorrhagic shock due to fracture of skull and injury to brain by hard and blunt object." Column No.17 record 5 injuries. Column No.19 also record laceration over occipital scalp region corresponding to injury No.1 and 2 in column No.17.

4] When the material compiled in the charge-sheet is perused, witnesses in sync with one another have stated the overt act on the part of deceased and in response to which the applicant has assaulted him, which caused his death.

5] The learned counsel for the applicant would submit that the case would fall within the purview of Section 304(2) of the IPC as there was no intention to cause the death of the deceased. The Applicant came to be arrested on 08.05.2021 and since then he is incarcerated.

Considering his age and the fact that charge is not yet framed, the Applicant deserve his release on bail.

6] 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 – Ramsurat Babhairam Jaiswal shall be released on bail in connection with C.R.No.276 of 2021 registered with Shantinagar Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall report to the concerned Police Station on first Monday of every trimester between 10.00 a.m. to 12.00 noon till framing of charge.
- (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.
- (f) Upon release, the Applicant shall furnish his residential address and contact number to the Investigating Officer and if there is any change, keep him updated about the same.

[BHARATI DANGRE, J]