



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

BAIL APPLICATION NO. 556 OF 2023

SADDAM ANWAR RAEEN

..APPLICANT

VS.

STATE OF MAHARASHTARA

..RESPONDENT

Mr. Misbaah Solkar a/w Mr. Gaurav Shenoy, Mr. Umang Shah, for the applicant.

Mr. A.A.Palkar, APP for the State.

PSI-Mr.D.A.Badgire, Nizampura Police Station Bhiwandi present.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 27, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under section 302 read with 34 of the Indian Penal Code, 1860 registered on 23/01/2021 vide C.R. No.13 of 2021 with Nizampura Police Station, Thane City.

3. There are in all 2 accused. The applicant is the accused no.2. The incident is dated 23/01/2021. The applicant was arrested on 24/01/2021. Accused no.1 has been enlarged on bail by this Court

by an order dated 02/01/2023. The deceased and the accused were known to each other. The applicant as well as the co-accused are fruit sellers from whom deceased would purchase fruits and sell them on handcart. The deceased had purchased strawberry amounting to Rs.4,000/- on credit from the accused no.1. The deceased was sitting along with his friends at about 11.00 p.m. and was abusing the accused no.1. The accused came to the spot. The deceased continued abusing the accused no.1. The complainant tried to pacify the deceased. The accused no.1 demanded his money for the strawberry which the deceased had taken on credit. The deceased informed the accused no.1 that due to loss in business, he would pay the money later. Accused no.1-Ansar assaulted the deceased by fist and kick blows. The present applicant went inside his gala and came back with a wooden danda and assaulted the victim on head, forehead and face. The accused then assaulted the victim with fist and kick blows. The complainant who was present took him to the hospital.

4. Learned APP oppose the application and submitted that even the applicant had been attributed the role of assault by fist and kick blows apart from the injuries caused by wooden danda.

5. My attention is invited to post-mortem notes. The cause of death is due to hemorrhagic shock due to injury to lung by hard and blunt object. The assault was not premeditated. It appears to have happened on the spur of the moment. Moreover, there is no injury on the head corresponding to danda which is attributed to the present applicant. There are injuries near the eyebrows. Fist and kick blows are attributed to the applicant and co-accused, however having regard to the manner in which the incident had taken place, prima facie, it does not appear that the applicant had any intention to commit murder of the deceased. Prima facie, it appears that the applicant may not have knowledge that the blows inflicted would be sufficient in ordinary nature to cause death. These are prima facie observations. The trial Court not to be influenced by these observations.

6. The applicant is in custody from 24/01/2021 for more than 1 year and 8 months. There are no criminal antecedents reported against the applicant. The investigation is complete. The charge-sheet has been filed. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Saddam Anwar Raeen in connection with C.R. No.13 of 2021 registered with Nizampura Police Station, Thane City shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant shall attend the concerned Police Station once in a month on every Monday of the first month between 2.00 p.m. and 3.00 p.m.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

7. The application is disposed of.

(M. S. KARNIK, J.)