

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

BAIL APPLICATION NO. 1525 OF 2021

Naresh Chaganlal Soni

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Sanjeev Kadam, Sr. Counsel a/w. Prashant Raut, Pratik
Deshmukh i/b. Bhanudas Jagtap for the Applicant.

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

PSI P.A.Khanvilkar, from Kandivali Police Stn.

CORAM : ANUJA PRABHUDESSAI, J.

DATED : 5th JULY, 2023.

P.C.

1. This is an application under Section 439 Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Sessions Case No. 730 of 2019, pending on the file of learned Sessions Judge, Dindoshi, Mumbai, for offence under Section 302, 504, 506 of the Indian Penal Code, arising from Crime No. 402 of 2019 registered with Kandivali Police Station.

2. Heard Shri Kadam, learned Sr. Counsel for the Applicant and

learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Ramakkal Ramnihol Vishwakarma, father of the deceased Ajay. The facts narrated in the FIR prima facie reveal that on 22.07.2019, at about 12.30 a.m., he had seen the Applicant herein assaulting his son Ajay. The first informant claims that the Applicant gave a fist blow on the head of Ajay, and that he lifted him and threw him on the road, as a result, his son became unconscious. He was taken to Shreya Clinic of Dr. Arvind, who referred him to Oscar Hospital, and thereafter he was referred to KEM Hospital. Hence crime came to be registered for offence under Section 307 of IPC. In view of the death of Ajay on 23.07.2019, Section 302 of IPC came to be added.

4. The statement of Anil Kumar indicates that there was an altercation between the deceased and the applicant. The deceased slapped the Applicant and in retaliation the Applicant slapped the

deceased. In the process, the deceased fell down and became unconscious. The statement of this witness does not prima facie indicate that the Applicant had lifted the deceased and thrown him on the road as alleged by the first informant.

5. The statement of Dr. Arvind Omprakash Singh, who was attached to Shreya Clinic, as well as the post mortem report reveals that the deceased had not suffered head injuries or injuries on any other vital part except superficial laceration and contusions on the toe and the lips. The post mortem report indicates that the brain was intact, with diffused subarachnoid hemorrhage all over the brain except superior and middle part of the frontal, parietal and occipital lobes. There was intra muscular contusion over the left side of the chest. The cause of death is stated to be due to dense diffused subarachnoid haemorrhage with raised intra-cranial pressure in an alleged case of assault, associated with myocarditis and superior sagittal sinus thrombosis’.

6. The material on record does not prima facie indicate that the cause of death was directly linked to the injury inflicted by the

Applicant but it appears that the death was due to the injuries sustained in a fall. Considering the totality of the circumstances, prima facie the Applicant did not inflict any injury with an intention of causing death or with knowledge that it was likely to cause death. In such circumstances, in my considered view, this is a fit case to exercise the discretion under Section 439 of Cr.P.C.

7. Hence the following order:-

- (i) The Applicant who is facing trial in Sessions Case No. 730 of 2019, pending on the file of the learned Sessions Judge, Dindoshi, Mumbai, is ordered to be released on bail on furnishing bail bond in the sum of Rs.40,000/- (Rupees Forty Thousand Only) with one or two solvent sureties in the like amount;
- (ii) The Applicant shall report to the Kandivali Police Station, once in two months, on the first Monday of the month.
- (iii) The Applicant shall attend the hearing before the

Sessions Court on every date, unless exempted.

- (iv) The Applicant shall not interfere with the complainant or the other witnesses, or tamper with the evidence in any manner;
 - (v) The Applicant shall keep the Investigating Officer informed of his permanent as well as temporary address, if any, and his contact details, and/or change of residence or mobile details from time to time.
8. Application stands disposed of.

(ANUJA PRABHUDESSAI, J.)