

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 873 OF 2023

Santosh Krishna Khaire .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr. Nitin Sejpal with Akshata Desai for the applicant.
Smt. Mahalaxmi Ganpathy, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 3rd MAY, 2024

P.C:-

1 The applicant is charged in C.R.No. 281/2020 registered with Kapurbawadi police station and though initially crime was registered under Section 326, 324, 504, r/w Section 34 of the IPC, when he was accused of assaulting the deceased, Vinod Barat, subsequently, on his death, Section 302 of IPC has been added.

2 The case of the prosecution is, on 19/10/2020, when the deceased along with the complainant went to a hotel 'China Express', and they were chatting outside, the owner of the hotel noted the two wheelers parked, and he raised a quibble. This prompted the present applicant to come out to ascertain its cause and thereafter, he went inside and came out armed with a knife

and stabbed the deceased in his chest/stomach, which resulted in bleeding injury.

He was immediately taken to the hospital and he passed away on 29/10/2020 i.e. almost 10 days after he sustained injury and the post mortem has given the cause of death as “Septicemia due to perforation peritonitis in an operated case of intestinal perforation caused due to stab injury to abdomen”

2 The applicant is arrested on the date of the incident and since then, he is incarcerated. It is informed that till date, the charge has not been framed.

The learned counsel Mr.Sejpal has assertively submitted that though he is the author of the injuries sustained by the deceased, he passed away after 7 days due to Septicemia, and for two reasons, he cannot be held guilty for the offence u/s.302 of the IPC; the first being that there was no intention and at it is at the spur of the moment, when he saw the employer being in quibble with the deceased and his friend, he went inside the got the weapon, and the second reason, being the cause of death is Septicemia, that too, after 10 days, and therefore, the prosecution would have to prove that the injury caused to the deceased had resulted into his death.

3 Though the learned APP has vehemently opposed the application, considering the fact that the applicant is incarcerated for almost four years and no charge is framed, considering his

young age, and the fact that he has no criminal antecedents and it is a quite possibility that the applicant on being tried, may take the punishment under Section 304 II of the IPC, and I am inclined to release the applicant on bail by passing the following order:-

ORDER

- (a) Application is allowed.
- (b) Applicant Santosh Khaire shall be released on bail in C.R.No.I-281/2020 registered with Kapurbawdi police station, on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant shall mark his attendance on first Monday of every trimester between 10:00 a.m to 12:00 noon to the concerned police station.
- (d) The applicant shall provide his current address, telephone number, place of residence and intimate about the change if any, to the concerned Investigating Officer.
- (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.

(SMT. BHARATI DANGRE, J.)