

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1505 OF 2024

SANTOSH
SUBHASH
KULKARNI
Digitally signed by
SANTOSH SUBHASH
KULKARNI
Date: 2024.04.12
17:57:25 +0530

Sachin Gautam Dhurandar ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Silvin Kale, for the Applicant.
Mr. Prashant Jadhav, APP for the State/Respondent.

CORAM: N. J. JAMADAR, J.
DATED: 10th APRIL, 2024

ORDER:-

1. Heard the learned Counsel for the parties.
2. This is an application for bail in CR No.115 of 2019 registered with CBD Belapur Police Station, Navi Mumbai, for the offences punishable under Sections 324, 307 and 302 of the Indian Penal Code, 1860 ("the Penal Code").
3. The first informant is the wife of Santosh (the deceased). On 25th June, 2019, the deceased was consuming liquor throughout the day. At 5.00 pm. the deceased was taking rest below a tree near a temple. When the first informant returned to the said spot after dropping her granddaughter at home, she found that the deceased was in an unconscious state. The deceased was bleeding profusedly.

The first informant was informed that the applicant had assaulted the deceased by means of fist and kick blows. Initially FIR was lodged for an offence punishable under Section 324 of the Penal Code. Eventually the deceased succumbed to the injuries on 6th July, 2019. Thereupon Section 302 of the Penal Code came to be added.

4. The learned Counsel for the applicant submitted that initially FIR was lodged for an offence punishable under Section 324 of the Penal Code only. As the deceased succumbed to the injuries, after about 10 days, the charge under Section 302 of the Penal Code came to be added. It was submitted that the applicant had allegedly given blows by means of fist and kicks only. There was no intention to cause the death of the deceased. The applicant has been in custody for more than four years. Therefore, the applicant deserves to be enlarged on bail.

5. The learned APP invited attention of the Court to the PM Report and the injury certificate dated 25th June, 2019, which shows that the deceased had suffered a big hematoma in occipital region. Since the trial has commenced the applicant may not be released on bail, urged the learned APP.

6. I have perused the allegations in the FIR. *Prima facie*, it appears that the applicant had assaulted the deceased by means of fist and kick blows. The injury certificate dated 25th June, 2019 records that there was head injury, small CLW over inner aspect of cheek, nose bleeding and big hematoma in occipital region. The Medical Officer opined that the injuries were possible by blunt object. There are eye witnesses who have stated that the applicant assaulted the deceased by means of fist and kick blows and the deceased had fallen on a stone.

7. In the aforesaid view of the matter, the question as to whether the applicant intended to cause death of the deceased or such bodily injury as was sufficient in ordinary course of nature to cause death would be a matter for adjudication at the trial. Evidently, the applicant was not armed with any weapon. The deceased was in a drunken state. The incident seems to have taken place in the spur of the moment. The witnesses did not claim that the applicant had assaulted the deceased by means of any weapon or acted in a cruel or unusual manner. In these circumstances, since the applicant has been in custody for almost five years, further detention of the applicant does not seem warranted.

8. The trial has commenced. However, having regard to large pendency of cases, it is unlikely that the trial can be concluded within a reasonable period. Thus, considering the nature of the indictment against the applicant and the evidence which the prosecution proposes to adduce, I am inclined to exercise discretion in favour of the applicant.

9. Hence the following order:

: O R D E R :

- (i) Application stands allowed.
- (ii) The applicant be released on bail in CR No.115 of 2019 registered with CBD Belapur Police Station, Navi Mumbai, on furnishing a P.R. Bond in the sum of Rs. 30,000/- with one or two sureties in the like amount to the satisfaction of the learned Magistrate.
- (iii) The applicant shall mark his presence at CBD Belapur Police Station on the first Monday of every alternate month between 10.00 am. to 1.00 pm. for the period of three years or till conclusion of the trial, whichever is earlier.
- (iv) The applicant shall not enter the limits of the CBD Police Station for a period of three years of till conclusion of the trial.

- (v) The applicant shall not tamper with the prosecution evidence. 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.
- (vi) 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.
- (vii) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (viii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application stands disposed.

[N. J. JAMADAR, J.]