



Diksha Rane

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

BAIL APPLICATION NO.3126/2022

SUNIL KUMAR RAJBHOG GAUTAM ..APPLICANT

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Abhishek R. Mishra for the applicant.
Mr. B. B. Kulkarni, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : APRIL 29, 2024.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State. Learned APP opposed the application for bail.

2. This is an application for bail in respect of the offence punishable under Sections 302, 342, 201 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 18/4/2021 vide C.R. No.146/2021 with Worli Police Station, Mumbai.

3. My attention is invited by learned counsel for the applicant to the order dated 8/4/2024 in Bail Application No.2189/2022 in respect of the co-accused - Saddam

Chappan Shah who has been enlarged on bail. In my opinion, parity may not be applicable as the co-accused is alleged to have assaulted the victim with a wooden stick, fist and kick blows. So far as the present applicant is concerned, it is alleged that the applicant has used an iron rod.

4. The prosecution case in brief is that on 18/4/2021, at about 10.30 a.m., the duty officer was informed about one wounded person who was found near metro work which was ongoing in Worli, Mumbai. The wounded person was not responding. The wounded person when he was taken to the hospital, was declared dead. It is alleged that the accused, four in number, assaulted the victim with an iron rod, wooden stick, fist and kick blows. The eye witness – Sandeep Balu Patade noticed that one person was tied to a pole, was being assaulted by the accused persons with an iron rod, wooden stick, fist and kick blows. When questioned by the eye witness, the accused persons told him that the deceased committed robbery of their belongings including a jack of car, mobile phone, etc. and after having committed robbery he was running away. They caught hold of him.

5. So far as the co-accused Saddam Shah who is alleged to have assaulted the deceased with a wooden stick is concerned, he has been enlarged on bail. The applicant was arrested on 19/4/2021 and now is in custody for more than three years. The trial is not likely to conclude soon. The cause of death as per the post-mortem report is “shock and haemorrhage following multiple contusions all over the body. (Homicide)”. There is one injury which is reported that there is abrasion of size 4 x 0.5 cm present on the frontal side of the forehead on the right side, dark red in colour. The rest of the injuries are contusions and abrasions. No fracture injuries are reported.

6. In the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Sunil Kumar Rajbhog Gautam in

connection with C.R. No.146/2021 registered with Worli Police Station, Mumbai, 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 is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.

(d) The applicant shall attend the Investigating Officer of Worli police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m. till the trial concludes.

(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.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall surrender his passport to the

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investigating officer.

7. The application is disposed of.

(M. S. KARNIK, J.)