

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4902 OF 2024

Mallesh Hanmanta Chintakandi ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Gaurav Bhawnani, for the Applicant

Mr. A.S. Shalgaonkar, AGP for the State.

CORAM : N. J. JAMADAR, J.
DATE : JANUARY 13, 2025

P.C.:

1. The applicant, who is arraigned in C.R.No. 999 of 2022 registered with Dharavi police station, for the offences punishable under sections 302, 504 and 324 of Indian Penal Code, 1860 (the Penal Code) and sections 37(1)(a) read with 135 of Maharashtra Police Act, 1951, seeks to be enlarged on bail.

2. The indictment against the applicant runs as under:-

Vijaykumar Nadar, the deceased, was the cousin of the first informant. On the night intervening 22nd and 23rd July, 2022 at about 3.00 am the first informant was waiting for the return of his sister, near Kamraj Chawl. The deceased and his friend Ganesh Nadar were having dinner. After a while, the applicant came thereat and raked up quarrel with the deceased. As an altercation ensued, the first informant intervened. The applicant left the said spot. Soon

thereafter, the first informant heard loud cries. The first informant rushed towards the office of Vimal. The first informant noticed that the applicant was assaulting the deceased by means of cricket stump. When the first informant tried to intervene, the applicant also assaulted the first informant by means of cricket stump and gave a blow on the right wrist of the first informant. Ganesh Nadar, the friend of the deceased, came thereat and thereupon the applicant fled away. Eventually the deceased succumbed to his injuries.

3. In fact, this is the second application for bail. The first application, being BA No. 1825 of 2023, was dismissed as withdrawn as this Court had expressed its disinclination to entertain the prayer for bail. Liberty was, however, granted to the applicant to prefer a fresh application if the charge was not framed within a period of nine months thereof. Indisputably, the charge has been framed within the stipulated period.

4. Mr. Bhawnani, the learned counsel for the applicant, however, submitted that there has not been any progress in the trial after framing of the charge. It was further submitted that there are serious discrepancies in the prosecution case. First, the transcript of CCTV footages does not clearly indicate that the applicant was the assailant. Second CCTV footage panchanama shows that though

the deceased was allegedly assaulted at 3.30 am, yet, the first informant and alleged eye witness Ganesh Nadar were seen shifting the injured at 5.37 am. The inaction on the part of the first informant and the witness for over two hours, to either seek assistance of law enforcement agencies or take the deceased to hospital raises serious doubts over the veracity of the prosecution case, urged Mr. Bhawnani.

5. In opposition to this, Mr. Shalgaonkar, the learned APP, stoutly opposed the prayer for bail. It was submitted that there is overwhelming material to show that the applicant was the assailant. The ocular account, prima facie, finds support in the images captured by CCTV.

6. To start with, it is necessary to note that the postmortem report indicates that the deceased died on account of head injury. The autopsy surgeon had found four injuries on the head. In the internal examination, underscalp hematoma and depressed comminuted fracture on left temporal and parietal bone, extradural hematoma on left temporoparietal region, subdural hemorrhage on bilateral parietal region, were noticed.

7. Prima facie, the deceased met a homicidal death due to head injury on account of assault by means of hard and blunt object. The time and place of occurrence assume material significance.

Presence of the first informant and the alleged eye witness, prima facie, appears natural. Both the witnesses have narrated the prelude to the assault in the nature of altercation between the applicant and the deceased, upon the former allegedly raking up quarrel. Prima facie, there is premeditation on the part of the applicant. After the initial altercation, the applicant left the said spot and returned thereat armed with cricket stump and thereafter assaulted the deceased. There is a very strong prima facie case against the applicant.

8. At this stage, the reliance on the transcript of the panchanama of the CCTV footage to press into service the alleged inaction on the part of the first informant and eye witness, does not advance the cause of the applicant.

9. I am, therefore, not inclined to exercise the discretion in favour of the applicant.

Hence, the following order.

ORDER

1] The application stands rejected.

2] 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 co-accused and the trial Court shall not be influenced by any of the observations made hereinabove.

(N. J. JAMADAR, J.)