

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 755 OF 2015
WITH
CRIMINAL APPLICATION NO. 1065 OF 2015

Tushar s/o. Rameshlal Kalda **....Applicant.**

Versus

The State of Maharashtra **....Respondents.**

Mr. Rajendra S. Deshmukh, Advocate for applicant.

Mr. A.V. Deshmukh, APP for State.

Mr. S.K. Chavan, Advocate for assisting APP.

CORAM : T.V. NALAWADE, J.
DATED : 25th February, 2015.

ORDER :

1. The application is filed for relief of bail. Both the sides are heard. This Court has perused the papers of investigation. The learned counsel for applicant made a statement that this is the first application filed for bail in this Court.

2. Chargesheet is filed for offences punishable under sections 302, 149 etc. of I.P.C. against the applicant and other five accused. Crime was registered on the basis of report given by one Vikki Tolani. Deceased Akash was brother of complainant. The incident in question took place on 30.6.2014 after 11.30

p.m. According to complainant, he was in the company of Mukesh and when he was proceeding by Shriram Chowk of Dhule, main accused Babbi alias Raj Indawe intercepted them and other accused Baban alias Prashant Relan came there with knife. Allegations are made that quarrel started between Mukesh and these two persons and they were asking Mukesh as to why Mukesh had given abuses in a party of previous day behind their back. Allegations are made that Baba alias Prashan Relan rushed at Mukesh with knife and at that time, other accused like Manish alias Liki Mandan, Don Pappu Taneja, Manjeet Gabada and Tushar Kalda came there. According to the complainant, he then called his brother Akash to the spot by contacting him on mobile phone and his brother reached there at 11.45 p.m. According to him, after arrival of Akash, accused Babbi alias Raj Indwe and his associates started assaulting complainant, Mukesh and Akash. Allegations are made that in the incident Baban alias Prashant and Manish alias Liki Mandan gave blows of knife to Akash and due to that he collapsed. He has made allegations that when Akash collapsed, the others including the present applicant assaulted him by fist blows, kicks on his head, chest, abdomen. Allegations are made that when other persons like Sagar Watwani, Karan Motwani, Anil Galini, Vishali Tolani rushed to separate the quarrel, the assailants ran away.

3. Akash died due to six stab wounds and one incised wound. One stab wound was near the eye and other stab wounds were mainly on thighs. He had sustained multiple abrasions over left lumbar region of back. The death took place due to hemorrhagic shock due to injuries sustained i.e. bleeding injuries.

4. Suresh Tolani sustained three stab wounds which were also on thigh portions. Mukesh sustained blunt trauma over neck.

5. This Court has perused the statements of eye witnesses. They have given little bit different version. According to them, the complainant Mukesh and deceased Akash, all were present on the spot when they reached the spot. They have contended that all the accused including the present applicant were threatening others not to interfere. However, allegations are made that weapon knife was used by Prashant alias Baban and Manish alias Liki and the weapons were handed over by Raj Indawe to these two boys and he had given instigation to them to finish Akash.

6. The learned counsel for the applicant made a submission that applicant has been behind bars since 2.9.2014. The learned counsel submitted that to two similarly placed accused, like Manjeet and Amitabh, the Sessions Court has granted bail. He submitted that this is the first application filed for bail in this Court by the applicant and in view of the aforesaid material, the applicant is entitled to get bail. As the applicant has been behind bars since September 2014 and the nature of material as discussed by this Court which is available as against the applicant, this Court holds that it is not desirable to keep the applicant behind bars till the disposal of the case. Question was asked to the learned APP as to whether applicant has any bad antecedents. He submitted that no such report is supplied to him.

7. In the result, the application is allowed. The applicant is to be released on bail on his furnishing PR and SB of Rs. 30,000/- (Rupees thirty thousand) with one solvent surety of like amount. He is not to tamper with the prosecution witnesses. He is not to commit similar offence. He is not to go to vicinity of residential places of witnesses and also the business place, if any.

8. The application filed for permission to assist the learned APP is allowed and disposed of.

[T.V. NALAWADE, J.]

SSC/