

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

CRIMINAL APPLICATION NO. 6542 OF 2014

Javed s/o. Gafur Shah **....Applicant.**

Versus

The State of Maharashtra **....Respondent.**

Mr. Shaikh Mazhar A., Advocate for applicant.

Mr. M.M. Nerlikar, APP for State.

CORAM : T.V. NALAWADE, J.
DATED : 8th January, 2015.

ORDER :

1. The application is filed for bail. Both the sides are heard. This Court has perused the papers of investigation. The learned counsel for the applicant made a statement that this is the first application filed for bail in this Court and no similar application was filed in Supreme Court.

2. Chargesheet is filed against the applicant for the offence punishable under section 302, 149 etc. of I.P.C. The crime was registered on the basis of report given by Smt. Vatsala Khude, who is aunt of the deceased. According to her, brother of the present applicant namely Dastagir was known to deceased

Balasaheb and Balasaheb is a son of her sister Laxmibai. They were friends. But about 8 days prior to the date of incident, there was quarrel between Balasaheb and Dastagir. On 25.7.2014 there was again quarrel between Balasaheb and Dastagir and during quarrel, Balasaheb had given abuses and slap to Dastagir and due to that Dastagir had become angry and he had given threat to teach lesson to Balasaheb. She has contended that at about 7.00 p.m., she noticed that Dastagir and present applicant Javed were quarreling with the deceased near Idgah ground and in the quarrel, Dastagir had given threat of life to Balasaheb. She has contended that on that night, after 9.00 p.m. when she was returning with her husband from the house of her sister, she noticed that Balasaheb was being assaulted by Dastagir, present applicant and one Arbaz. She has made allegations that when they reached there, all the three assailants ran away. In her supplementary statement, she contended that during the incident she had noticed two more persons like Bhausahab Gore and Umesh Chavan and they were associates of Dastagir. The first statement was recorded on 25.7.2014 and the second statement was recorded on 26.7.2014. The statement of the husband of the complainant was recorded on 26.7.2014 and he has contended that Javed and Bhausahab had held Balasaheb and after that stab wound was given by Dastagir by using knife.

3. There are statements of other witnesses dated 28.7.2014, 30.7.2014 and 31.7.2014. These witnesses have given little bit different versions and they have contended that they also witnessed the incident. One witness had seen only Dastagir and Arbaz on the spot and he had heard about the other accused. Some witnesses had seen all the five assailants. Some witnesses have stated that present applicant was assaulting Balasaheb by kick blows etc. to the deceased and he was giving instigation to Dastagir to finish Balasaheb. Some witnesses have stated that Balasaheb was held by Bhausahab Gore and Umesh Chavan.

4. The police papers contain the panchanama of recovery of clothes of the applicant. The submissions made show that no blood was found on the clothes of the applicant. Applicant is aged about 18 years. Thus, there are different versions in respect of the part played by the applicant during incident. He has been behind bars since 4.8.2014.

5. The P.M. report shows that only one stab injury was found and other injuries were simple injuries like C.L.W. In view of these circumstances, this Court holds that the applicant is

entitled to get bail and it is not desirable to keep the applicant behind bars till the disposal of the case.

6. In the result, the application is allowed. The applicant is to be released on bail on his furnishing PR and SB of Rs. 15,000/- (Rupees fifteen thousand). He is not to tamper the prosecution witnesses.

[T.V. NALAWADE, J.]

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