

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL BAIL APPLICATION NO.947 OF 2015****IN****CRIMINAL APPEAL NO. 462 OF 2015**

Satish Vasant Bhosale.

...Applicant.

versus

State of Maharashtra.

...Respondent.

.....
Mr.A.A.Mundergi, Advocate i/by Mr Amit. B. Thorat for the
Applicant.

Mr. A.S.Shitole, APP. for the State.

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**CORAM : SMT V.K. TAHILRAMANI, Acting C.J.&
A.S. GADKARI, J.**

20th October, 2015.**P.C. :**

Heard learned counsel for the applicant- original
accused No.1 and the learned A.P.P. for the State.

2) The applicant has been convicted under Section 302
and other sections of the Indian Penal Code. The applicant is now
seeking bail. It is the prosecution case that on 18.9.2005 at about
7.30p.m. the applicant along with other accused assaulted
Chandrakant (P.W.4) and deceased-Sanjay. It is the prosecution
case that the applicant assaulted the deceased-Sanjay with iron
rod and other accused persons assaulted Sanjay and others with
sticks. Chndrakant sustained lacerated wound on the left
temporal region which was 1.c.m. x 1/2 c.m. in size. In addition,

he sustained some minor abrasion on his left hand and left knee. There are two eye witnesses in this case i.e. s P.W.1 Bhagwan Bhosale and P.W.2 Vishal Santaji Bhosale.

3) Learned counsel for the applicant submitted that there is a cross case in which P.W.No.2-Vishal was an accused. Vishal was accused No.10 in the said case. The said cross case was numbered as Sessions Case No.46 of 2009. In the said case all the accused were convicted under Section 326 of the Indian Penal Code. Learned counsel for the applicant further submitted that the incident occurred while exercising the right of private defence, hence, the case would not fall under Section 302 of the Indian Penal Code but it would fall under Section 304 Part II or at the most 304 Part I of the Indian Penal Code. Looking to the fact that the witness in this case was accused in the cross case and looking to the fact that in the cross case 10-accused have been convicted under Section 326 of the Indian Penal Code. Prima facie, we find much merit in the submission of the learned counsel for the applicant. Moreover, it is noticed that deceased has sustained only one injury on the head which is described above. Looking to all the above facts, we are inclined to grant bail to the applicant. Hence, the following order.

ORDER

- a) The applicant be released on bail in the sum of Rs.25,000/- with one surety in the like amount and P.R. bond in the like amount.
- b) During the period that the applicant is on bail, he shall report to Umbraj Police Station, Satara on first day of every month.
- c) Application is allowed in the above terms.

(A.S. GADKARI, J.)

(ACTING CHIEF JUSTICE)