

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.222 OF 2015**

Mr. Mangesh Raghunath TawareApplicant.
Versus
The State of Maharashtra & Anr. ...Respondents.

Mr. A.P.Mundargi, Sr. Adv. i/by Mr. Debajyoti Talukdar, advocates for the Applicant.
Mr. Arfan Sait, APP for the respondent-State.
IO Mr.S.S.Lad, PSI attached to Marketyard police station, Pune city present.

CORAM : MRS. MRIDULA BHATKAR, J.

DATED : March 24, 2015.

P.C.:

Application is moved for bail as the applicant-accused is facing charges under Sections 302, 307, 363, 364, 120B, 201, 143, 147, 148, 149, 323 and 504 of the IPC read with 37(1)(3) of the Bombay Police Act in the C.R.No.112 of 2013 registered at Market Yard police station on 5.12.2013. Father of the deceased Kunal gave information to police that his son was assaulted by the applicant-accused and the other three co-accused on the issue of burning vehicle of the applicant-accused. Applicant-accused and the co-accused took him to the distant place and assaulted him with iron rod, stick and stumps on the person of the

deceased Kunal. One eye witness Sanjay Gaikwad was with the deceased. As the deceased was unconscious, they dropped the deceased and his friend Sanjay near the road and also informed the police that the deceased Kunal has met with an accident. Injured Kunal was admitted to the hospital on 5.12.2013. However, he succumbed to the injuries on 9.12.2013. Hence, thereafter the applicant-accused and co-accused were arrested. Applicant-accused is in prison since 13.12.2013. Hence this bail application.

2 The learned Senior Counsel for the applicant-accused had submitted that one Vishal and One Sagar , who are the co-accused to whom similar role of assault is attributed, were released on bail by this Court by its orders dated 19.1.2015 and 28.7.2014 respectively. He prays for parity and he submits that the doctrine of parity is to be made applicable to the present applicant-accused also and prays that the applicant-accused be released on bail. The learned Senior Counsel further submitted that considering the statement and supplementary statement of eye witness and the injuries caused to the applicant-accused and the cause of death as mentioned in the PM Notes, it is evident that the applicant-accused and the co-accused did not intend to murder the deceased. It is the case at the most of Section 326 of the IPC. He further submits that considering the parity, applicant-accused,

who is detained behind the bars, is entitled to bail.

3 The learned prosecutor while meeting with the submissions of the learned Senior Counsel states that the role played by the applicant-accused is distinguishable on the facts as the name of other co-accused was not mentioned in the FIR and the role played by the other co-accused was diluted in the supplementary statement. He further submitted that the prosecution is opposing this bail application on the ground that the applicant-accused is having a bad criminal record as four cases are registered and pending against him.

4 Perused the FIR, statement of the eye witness, previous orders passed by this Court releasing co-accused on bail. The submissions of the learned Senior Counsel that prima-facie it appears that the case may not fall under Section 302 of the IPC is acceptable. However, name of the applicant-accused is specifically mentioned in the statement of the eye witness and the specific role of assaulting deceased is also consistently mentioned. Considering the orders passed by this Court earlier releasing co-accused on bail, parity is to be applied to the case of the present applicant-accused also. I would have definitely considered the case of the applicant-accused on the ground of parity, however, applicant-accused has four pending cases to his credit and they

are of the similar nature disclosing that the offence against the human body registered at different police stations in Pune. On this ground ,considering the possibility of pressurising the witnesses and his previous record, I am not inclined to grant bail to the present applicant -accused.

5 Bail application, accordingly, stands rejected.

6 However, liberty is given to the applicant-accused to move fresh bail application if trial won't commence within six months from today or as submitted in all four cases pending against him if he is acquitted, whichever is earlier, he is at liberty to move second bail application.

(MRS.MRIDULA BHATKAR, J.)