

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.509 OF 2015

Arbaj Firoz Khan

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Rupesh Zade i/b. Mr. S.P. Sahane for the Applicant.

Mr. Rajesh More, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 27th NOVEMBER, 2015.

P. C. :

This is an application for bail filed by the aforesaid Applicant, who is an accused in Sessions Case No.790 of 2012 pending on the file of the Additional Sessions Judge, Pune arising out of C.R. No.68 of 2012 registered with Kondhwa police station for the offences punishable under sections 302, 326, 201, 147, 148 and 149 of the IPC and sections 37 (1) and 135 of the Bombay Police Act.

2. Heard the learned counsel for the Applicant and the learned counsel for the Respondent -State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The records prima facie reveal that one Jahhed Mohammad Sayyad had lodged a FIR alleging that on 29.4.2012, he and his friend Ismail Shaikh were proceeding towards Nawajish park. When they reached near Phatima Heights building the Applicant herein asked him why he was racing the bike and looked at him angrily. There was an altercation and scuffle between the Applicant and Ismail. Immediately thereafter the co-accused Salman, Ibrahim Sayyad and Salman, etc. came to the spot armed with swords, Koyta and chopper and inflicted injuries on the complainant and Ismail Shaikh.

4. The material on record reveals that said Ismail Shaikh succumbed to the injuries sustained in the said incident. The post mortem report prima facie reveals that death of said Ismail was homicidal. It is to be noted that the FIR does not prima facie reveal that the Applicant was armed with a weapon. His statement reveals that there was an altercation and scuffle between him and the Applicant and thereafter the other assailants had come to the spot of the incident and assaulted said Ismail. The records prima facie reveal that the incident was not premeditated. The nature of imputations made against the Applicant do not prima facie reveal that the Applicant

had intention to cause the death of said Ismail. The Applicant is a youth of 24 years of age and he is in custody since 30.4.2012. The trial has commenced. The evidence of the complainant is already recorded. Considering all these aspects in my considered view, the Applicant is entitled for bail.

5. Under the circumstances and in view of the above facts, the application for bail is allowed of the following terms and conditions:

(i) The Applicant is ordered to be released on bail on furnishing bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or two sureties in the like amount to the satisfaction of the Additional Sessions Judge, Pune.

(ii) The Applicant shall not interfere with the complainant and /or other witnesses in any manner.

(iii) The Applicant shall appear before the Sessions Court on every date of hearing.

(ANUJA PRABHUDESSAI, J.)