

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

CRIMINAL BAIL APPLICATION NO. 922 OF 2015

Jamil Iqbal Khan.

...Applicant.

vs.

State of Maharashtra.

...Respondents.

Mr. P. G. Pandey for the Applicant.

Ms. Rutuja Ambekar, APP. for the State.

**CORAM : SMT. SADHANA S. JADHAV, J.**

**DATE : 16 JULY 2015**

PC:

Heard.

2) This is an application under Section 439 of the Cr.P.C. The applicant herein is arrested on 13.1.2014. The investigation is completed and charge sheet is filed. The applicant is accused in Sessions Case No.33/2014 pending before the Sessions Court at Palghar. The applicant is facing trial under Section 303, 307, 323 504, 506 read with 149 of the I.P.C. It is the case of the prosecution that on 13.1.2014 Navin Subhash Sankhe lodged a report to the Police Station alleging therein that he is doing Pandal Decoration business. On 13.1.2014 he was erecting pandal in front of his shop. The original accused No.1 Fujail Khan has parked his motor cycle. He requested Fujail Khan to remove his motor cycle. At that time there was altercation between the complainant and the Fujail

Khan. Soon thereafter Fujail Khan returned with his associates including the present applicant who had come to the scene of offence with wooden log and iron rod. There was altercation between both groups. Subhash Sankhe i.e. father of the complainant and his brother in law had come to the scene of offence for the purpose of specifying. At that time the accused persons had assaulted Subhash Sankhe. The injured succumbed to the injuries after about 7 days i.e. 19.1.2014. The post-mortem notes would show that the injured had undergone operation i.e. craniotomy. There are switched wounds on left parietal and left temporal skull bone. The cause of death is due to head injury in operated case of craniotomy.

3) Upon perusal of the papers of investigation it appears that the injured had undertaken CT Scan of brain on 14.1.2014. The Diagnostic Centre impression was "No significant intra cranial abnormality detected", "Mid soft tissue injury of scalp in right parietal region". The statement of the eye witness would show that the present applicant had assaulted the complainant and the witnesses with fist and kick blows and a leather belt. There is no prima facie allegation that the applicant had assaulted Subhash Sankhe.

4) This court vide order dated 22.6.2015 had enlarged the co accused Mohammed Saddam Dildar Hussain on bail. By virtue

of doctrine of parity co accused who was on similar place was granted bail by this Court on 10.3.2015 (Hon'ble Justice A.M.Thipsay). It was observed by Hon'ble Justice A.M.Thipsay that although the witnesses have been identified in the test identification parade, there is no precise role to any one of them. and the supplementary statement of the eye witnesses have not been recorded after the accused were identified in the test identification parade. In this view of the matter, the applicant also deserves grant of bail. These observations are prima facie in nature and shall not be considered for the purpose of quashing of FIR, discharge Application or at the time of trial . The original accused No1 Fujail Khan shall not claim parity with other co accused and shall not claim parity with the present applicant. As this court has considered the role attributed to the present applicant. Hence, order.

#### ORDER

- 1) The application is allowed.
- 2) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- 3) The applicant shall report to concerned police station on first Sunday of each month, till the conclusion of trial.

- 4) The applicant shall be released on provisional cash bail of Rs.25,000/- for the period of two weeks.
- 5) The applicant shall not seek further time for furnishing surety.

**(SMT. SADHANA S. JADHAV, J.)**