

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 6253 OF 2016**

Rahim Dagubhai Shaikh,  
Age : 32 years, Occu.: Labourer,  
R/o. Mahegaon Deshmukh,  
Tq. Kopargaon, Dist. - Ahmednagar .. Applicant

Vs.

The State of Maharashtra  
Through Investigation Officer,  
Kopargaon Taluka Police Station,  
Tq. Kopargaon, Dist. Ahmednagar .. Respondent

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Mr. R.V. Gore, Advocate for the applicant  
Mr. S.P. Deshmukh, APP for the respondent/State

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**CORAM : A.S. CHANDURKAR, J.**  
**DATE : 21/12/2016**

**ORAL ORDER :**

Heard.

2. The applicant, who has been arrested on 22/6/2016 in connection with Crime no.I-52 of 2016 registered with Kopargaon Taluka Police Station, District - Ahmednagar for the offences punishable under Sections 302, 452, 143, 147, 148, 149 of the Indian Penal Code and under Section 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, seeks his release on bail.

3. As per the FIR, the brother of the informant – Sanjay is stated to have a quarrel with accused no.1 prior to about 2 years. It is stated that in that context, the accused persons including the applicant had approached the house of Sanjay and after breaking open the said house, had assaulted him. Said Sanjay expired due to injuries. Said report is dated 25/4/2016.

4. It is submitted by learned counsel for the applicant that there is no sufficient evidence against the applicant which would indicate his involvement in the crime or any particular overt act. He submitted that though statement of witnesses recorded under Section 161 of the Code of Criminal Procedure indicated presence of the applicant, said stand has been changed in the statement recorded under Section 164 of the Code. It is then submitted that no test identification parade was conducted for the present applicant though the same was conducted for accused no.4. It is further submitted that as the investigation is now complete and chargesheet has been filed, the applicant deserves to

be released on bail.

5. Application is opposed by learned Additional Public Prosecutor. He submits that the statements of witnesses Bharat Khairnar and Walmik Kamble implicate the present applicant. There is recovery of stick from the present applicant. He therefore submits that considering the gravity of the offence, the application deserves to be rejected.

6. I have perused the chargesheet placed on record. Statement of Bharat Khairnar recorded under Section 161 of the Code indicates presence of the applicant alongwith others who were all holding sticks. In his statement recorded under Section 164 of the Code, it is stated that the applicant and two others had pelted stones on the door of Sanjay's house. It is further stated that other accused persons were holding sticks. Insofar as the statement of Valmik Kamble is concerned, the same indicates presence of the applicant however in his statement under Section 164 of the Code, he does not even refer to his presence. Though accused no.4 has been identified in the test identification

parade, there is no such identification parade conducted for the present applicant. A stick is stated to have been recovered from the applicant. It is also to be noted that the learned Sessions Court has enlarged accused no.4 - Ravindra Landge on bail. Considering the fact that after completion of due investigation, the chargesheet has now been filed, further detention of the applicant is not necessary.

7. In view of aforesaid, the following order:-

**ORDER**

I] The applicant, who has been arrested in Crime no.I-52 of 2016 registered with Kopargaon Taluka Police Station, District - Ahmednagar for the offences punishable under Sections 302, 452, 143, 147, 148, 149 of the Indian Penal Code and under Section 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, is directed to be released on bail, upon furnishing P.R. bond of Rs.15,000/- with one surety in the like amount.

II] He shall attend the Court of Sessions, Kopargaoon, District - Ahmednagar on 10/01/2017 and abide by the conditions imposed by the Sessions Court.

III] No steps shall be taken to influence the prosecution witnesses.

8. By clarifying that the observations made in this order are only for deciding the bail Application, the same is accordingly allowed and disposed of.

**[A.S. CHANDURKAR]**  
**JUDGE**

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