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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.594 OF 2016

Mayur Vilas Pachphule	 Applicant
V/s.	
The State of Maharashtra	 Respondent

Mr. Jaydeep D. Mane, for the Applicant.
Mr. Arfan Sait, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 14th JUNE, 2016.

P.C. :

1. The applicant/accused in Crime No.64 of 2015, for the offence punishable under Sections 302, 324, 323, 504, read with 34 of Indian Penal Code, registered with police station Madha, District: Solapur, at the instance of Dayanand Deokar, by this application is seeking his release on bail.
2. Heard learned counsel for the applicant. He argued that the incident in question was not pre-planned act on the part of applicant and co-accused. The incident took place at a spur of moment and the main accused is stated to have used a stick in the the hotel for the assault. Learned counsel for applicant further argued that the role attributed to the

present applicant is that of assault by means of piece of tile on leg of the deceased. The F.I.R. is to that effect. Learned counsel for applicant further argued that the informant, in his statement recorded under Section 164 of the Code of Criminal Procedure, has not attributed any overt-act to the present applicant. On the same ground, accused No.3 Avinash Pastapure is released on bail by this Court and therefore, on the ground of parity, the applicant is entitled for bail. Learned counsel further argued that even otherwise the offence is not falling under Section 302 of the Indian Penal Code.

3. The learned APP opposed the application and submitted that apart from informant, there are other eye witnesses to the alleged incident. Mahendra Thapa and Shetsing Jaswant Singh are the eye witnesses to the incident; and they have categorically stated that the present applicant has assaulted deceased by means of piece of flooring tile.

4. Perusal of the postmortem report shows that the death of deceased Pandit Abhiman Kale is homicidal in nature and there were several antemortem injuries on his dead body. Prima facie it cannot be said that the act was not premeditated. The F.I.R. itself discloses that on earlier occasion Pandit Kale (since deceased) had assaulted uncle of the present applicant and in retaliation Pandit Kale was done to death on

30.9.2015. Informant as well as witnesses have stated that the applicant is one of the assailant. The offence is punishable with life imprisonment or death. As the intention of the assailants can be gathered from the nature of injuries found on the dead body. No case for bail is made out. Application is rejected.

[A. M. BADAR, J.]