

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1769 OF 2017

Aakash Anilkumar Doke vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Nitin Dalvi i/by Vikas Kolekar for the Applicant.

Mrs.A.A. Takalkar, APP. for the State.

CORAM : A.S.GADKARI, J.

DATE : 26th September, 2017

P.C.

1. This is an application under Section 439 of the Cr.P.C for bail in CR No.136 of 2017 registered with Bharati Vidyapeeth Police Station, Pune under Sections 307, 504 read with 34 of the Indian Penal Code.

2. The first information report is lodged by Abhijit Shinde, stating that on 26.3.2017 at about 11.00 p.m. due to earlier alterations between him and and Shri. Gaurav Jadhav on one hand and accused No.1 and the present applicant on the other hand, the applicant Aakash Doke assaulted Gaurav Jadhav and Manoj Chordia with bambu stick. A witness by name Shubham Phalke reported to Bharati Vidyapeeth Police Station on telephone that a motor cycle has met with an accident and a person has suffered injuries to his head and has been admitted in ICU Ward in Bharati Hospital, Pune. The First investigation report came to be lodged on 27.3.2017 at 1.50 a.m. at the instance of Abhijit Shinde. During the course of

investigation applicant came to be arrested on 27.3.2017. After completion of investigation the police have submitted charge sheet.

3. Perused the charge sheet. It is the prosecution case that due to earlier alterations which took place between Gaurav Jadhav and Manoj Chordia on one side and the applicant and Aashish Pawar on other side the accused persons on 26.3.2017 at about 11.00p.m. Assaulted Gaurav and Manoj with bambu sticks. That Gaurav was thereafter admitted to Bharati Hospital where he succumbed to injuries. The Medical Officer has opined probable cause of death as "Death due to head injury". The statement of the first informant indicates that accused No.1 Aashish Pawar accompanied along with one of his friend assaulted Gaurav on his left side of head with bambu stick. The record further indicates that in his supplementary statement dated 2.4.2017 which is recorded after the gap of 7-days the said informant has stated that, he subsequently realized that the applicant herein was also accompanying the accused No.1 Aashish Pawar on the date of incident and participated in the assault. The injured witness namely Manoj Chordia in his statement has not named the applicant however has stated that one person wearing white T-shirt was accompanying accused Aashish Pawar and participated in the said assault. A witness by name Shubham Phalke, has named the applicant as was accompanying Aashish Pawar on the date of incident and the applicant assaulted Manoj Chordia in the said assault. As far as the first informant and injured witness Manoj Chordia are concerned they have categorically stated in their first statement that unknown person was accompanying accused No.1 Aashish Pawar. However it prima facie appears from the record

that the prosecuting agency has not conducted test identification parade to establish the identity of the applicant as the same person who has participated in the assault.

4. In view of the above, prima facie, it appears that the identity of the applicant as person who had participated in the said assault is doubtful. It is submitted by the APP that there are no antecedents at the discredit of the applicant.

5. In view thereof, the applicant can be released on bail.
Hence, the following order.

a) The applicant be released on bail in CR No.136 of 2017 registered with Bharati Vidyapeeth Police Station, Pune on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

b) After his release from Jail the applicant shall attend the concerned police station on every first and third Monday of the month between 5.00 p.m. to 7.00 p.m. for a period of one year.

c) The applicant shall also attend all the dates before the Trial Court

d) Any two consecutive defaults in complying with the aforesaid conditions, shall attract the provisions of cancellation of bail

e) The applicant shall not tamper with the evidence and /or influence the prosecution witnesses.

d) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)