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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO.1780 OF 2017**

**Imtiyaz Mushtak Shaikh**

**..Applicant.**

**Vs.**

**The State of Maharashtra**

**..Respondent**

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Mr. Aniket Nikam i/b Aashish Satpute for Applicant.

Mr. S.H. Yadav APP for State.

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**CORAM: A.S. GADKARI, J.**

**DATE : 22<sup>nd</sup> September 2017.**

**P.C.**

**1]** This is an application under Section 439 of Cr. P.C. for bail in CR No. 39 of 2017 dated 17.1.2017 registered with Nigadi Police Station, District- Pune under Section 302, 307, 323, 504, 506 of the Indian Penal Code.

**2]** Heard the learned Counsel for the applicant and the learned APP. Perused the chargesheet.

**3]** The first information report is lodged by the brother of Abhijit (deceased) namely Mr. Abhishek Tikhe on 17.2.2017. It is the prosecution

case that, the applicant was urinating in front of house of the deceased Mr. Abhijit Tikhe to which he objected. There were altercations between applicant and deceased which resulted into a fight. That the applicant initially assaulted deceased with kicks and fist blows which caused deceased to fall on the ground. That applicant hurled a stone on the head of deceased. Thereafter applicant ran away from the scene of offence. After receipt of information, from an eye-witness Rajkumar Randhir, the brother of deceased Mr. Abhishek Tikhe i.e. the first informant along with said eye-witness took deceased-Abhijit Tikhe to hospital by an ambulance where he succumbed to injuries. After completion of investigation, police have submitted chargesheet.

**4]** It appears that there are four eye-witnesses to the said incident who have stated the aforesaid fact. Postmortem report mentions the cause of death as 'head injury with blunt trauma chest'. Prima facie it appears that injury caused to deceased to his exterior and internal part of head is due to assault by the applicant by hurling a stone on the head of deceased. The record indicates that the Investigating Agency while effecting seizer panchanama of the said article of assault namely stone, has not mentioned the weight or size of the said stone. In the statement, eye-witnesses have stated that the applicant initially assaulted deceased-Abhijit with kick and

fist blows and thereafter hurled a stone on his head. It appears from the statement of the eye-witnesses that the applicant did not hurl the stone towards the deceased with pre-meditation to commit murder of the deceased-Abhjit. It appears from the record that in the fight which ensued due to sudden provocation the applicant has hurled a stone which was lying at the spot at the deceased. It is submitted that there are no antecedents at the discredit of the applicant.

5] In view thereof, this Court is of the view that, the applicant can be released on bail.

Hence the following Order:

(i) The applicant be released on bail in CR No. 39 of 2017 registered with Nigadi Police Station, District-Pune on on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

(ii) After his release from the jail, the applicant shall attend the Nigadi Police Station once in month i.e. on every 1<sup>st</sup> Monday of the month between 11.00 a.m. to 2.00 p.m.

(iii) The applicant shall also attend all the dates before the Trial Court.

(iv) Any two consecutive defaults in complying with the

aforesaid conditions, shall attract the provisions of cancellation of bail.

(v) Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

(vi) Criminal Application is allowed in the aforesaid terms.

**(A.S. GADKARI,J.)**