

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 332 OF 2018

Maqsood Ahmed Nazir Ahmed AnsariApplicant.

Vs.

The State of MaharashtraRespondent.

Smt. Gladys Pereira for the Applicant.

Mr. Ameet Palkar APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 19th JUNE, 2018.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. I-198 of 2016 dated 11 September 2016 registered with Bhiwandi Taluka Police Station, District Thane under Sections 302, 452, 427, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code, now culminated into Sessions Case No.50 of 2017.

2 Heard the learned counsel appearing for the Applicant, the learned APP. Perused the charge sheet.

3 It is the case of the prosecution that, the deceased Mehmood Abdul Hamid Hasmi with a view to commit theft, on 11th

September 2016 at about 3.00 a.m. entered into the house of Majhar Ali Abdul Rasid Ansari situated at Dongar Pada, Chavindra Taluka Bhiwandi, District Thane. Due to the noise, the said Majhar Ali woke up and made hue and cry. The deceased Mehmood Hasmi thereafter started running from the said spot. People from the vicinity gathered and chased the deceased Mehmood Hasmi. The deceased was subsequently accosted by the people and beat him. Mehmood Hasmi succumbed to injuries before admission to the hospital.

During the course of the investigation, the Applicant came to be arrested on 15th September 2016 and after completion of the investigation, the police have filed the charge sheet.

4 The record indicates that, the role attributed to the Applicant in the present crime is that, he along with other accused persons assaulted the deceased. It is alleged that the Applicant has used a wooden log for the said assault. The record indicates that after the said assault by the accused persons, the deceased was lying at the scene of offence for some time and was writhing in pain. That, when the wife of the deceased came at the scene of the offence, he demanded water from her, whereupon it is alleged that the Applicant and other accused persons prevented her from providing him drinking

water.

It is thus, prima facie, clear that the Applicant and other accused persons with a view to admonish and/or to teach a lesson to the said Hasmi, who was alleged to have entered into the house of Majhar Ansari in the wee hours with a view to commit theft, assaulted him. It further prima facie, appears that the Applicant and the other accused persons did not have intention to commit murder of the said Mehmood Hasmi.

5 In view of the above, the Applicant can be released on bail.

Hence, the following order:-

- a) The Applicant be released on bail in CR No. I-198 of 2016, registered with Bhiwandi Taluka Police Station, District Thane now culminated into Sessions Case No.50 of 2017, pending on the file of Additional Sessions Judge, Thane 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 Bhiwandi Taluka Police Station on every

first Monday of the month between 11.00 a.m. and
1.00 p.m.

- c) The Applicant shall attend all the dates before the
Trial Court unless precluded for medical reasons.
- d) The Applicant shall not tamper with the evidence
and/or pressurize the prosecution witnesses.

6 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)