

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 634 OF 2018**

Rohit Dinkar Sapate. .. Applicant.

V/s.

State of Maharashtra. .. Respondent.

Mr. Satish Gaud I/b. Mr. Purushottam B. Naiknaware, advocate for applicant.

Mr. Vinod Chate, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : JUNE 29, 2018.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 439 of the Code of Criminal Procedure, 1908. The applicant herein is arested in Crime No. 125 of 2016 registered at Sarkarwada Police Station for offence punishable under section 302, 323, 504, 506 read with section 34 of the Indian Penal Code. Investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 15th May, 2016 Sandeep Gosavi had lodged report at the police station alleging therein that the present applicant alongwith Sunny Pagare were abusing Swagat

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Kansara. They had assaulted him with bricks. They had brutally assaulted him to such an extent that he had succumbed to the injuries in the hospital.

4 The learned APP had submitted that the applicant had criminal antecedents, in as much as 9 cases are registered against the applicant in different police stations for offence such as 392, 307, 379 etc. of the Indian Penal Code. The learned Counsel for the applicant submits that in Sessions Case No. 181 of 2012 in which he was tried for offence punishable under section 307 of the Indian Penal Code, the applicant has been acquitted. The learned Counsel for the applicant submits that the applicant has been falsely implicated. He is an under-trial prisoner for almost 16 months. In the other cases, he has attended the scheduled dates. And that in two cases which are shown by the prosecution are not registered at the said police station. The applicant was also tried for offence punishable under section 302 of the Indian Penal Code in Sessions Case No. 221 of 2011. In the said case, the applicant herein is convicted for offence punishable under section 323 read with section 34 of the Indian Penal Code and was given a set off and that he has been acquitted of the principal offence punishable under section 302 read with section 149 of the Indian Penal Code. This by itself would show that although he has been acquitted by the Sessions Court

for the offence punishable under section 302 of the Indian Penal Code, he was still a part of the whole incident.

5 The learned APP has no instructions as to whether the said Judgment dated 3rd December, 13 has been challenged before this Court.

6 Be that as it may, taking into consideration the gravity of the offence and the criminal antecedents, this Court is of the opinion that the applicant does not deserve to be enlarged on bail.

7 The learned Counsel for the applicant has placed implicit reliance on the Judgment of the Apex Court in the case of **Dataram Singh v/s. The State of Uttar Pradesh** in **Criminal Appeal No. 227 of 2018**, wherein the Hon'ble Apex Court has considered the parameters for deciding the bail application.

8 In the present case, the applicant has criminal antecedents and therefore, the facts of that case would not be relevant in the present case. Therefore, the application being sans merits stands rejected and disposed of accordingly.

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[SMT. SADHANA S. JADHAV, J.]