

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1270 OF 2018

1. Namdeo Shankar Dighe
2. Vinit Vasant Korade ... Applicants
Vs.
State of Maharashtra ... Respondent

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Mr. Hrishikesh Mundargi I/by Mr. Madan Gupta for the applicants.
Mr. Y.Y. Dabke, APP for the Respondent-State.
Mr. Pravin Mane, P.I. of Sakinaka Police Station is present.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 3rd SEPTEMBER, 2018.**

P.C.

1. This is an application for bail. The applicant is arrested in connection with C.R. No. 653 of 2017 registered with Sakinaka Police Station for the offences punishable under Sections 141, 142, 143, 144, 146, 147, 148, 149, 363, 364, 302, 109, 114, 120 (b) of Indian Penal Code.

2. Prosecution case is that on 7th November, 2017, the deceased Akash was assaulted by several persons by Bamboo Stick which has resulted into his death. The deceased was taken to place of incident wherein the accused had inflicted blows which has resulted into his death. There were several injuries on his person.

The applicants were arrested on 8th November 2017 since then they are in custody.

3. The prosecution relied upon the statement of Bhagyawan Kaver, Mahesh Acherekar and Sandesh Dhurandar as well as of subsequent statement of Aniket Jaiswal. Learned advocate for the applicant submitted that deceased was history sheeter and was also externee. He has enmity with several persons and there is possibility that he has been assaulted by some persons enmically disposed of against him. It is submitted that there is no eye witness to the incident stating that applicants have assaulted deceased. There is no recovery against the applicants. There is no incriminating evidence to show the involvement of the applicants. Statement of Aniket was not recorded immediately after the incident and it appears that supplementary chargesheet has been filed which refers to the statement of the said witness which was recorded belatedly on 15th March, 2018. The said witness has attributed overt act to the applicant alleging that he has assaulted deceased by Bamboo stick. It is submitted that the applicants are in custody from the date of arrest and the investigation is completed and chargesheet has been filed.

4. Learned APP submitted that there is sufficient evidence

against the applicant. The statement of three witnesses namely Bhagyawan Kaver, Mahesh Acherekar and Sandesh Dhurandar refers the presence of the applicant near the place of incident and the statement of Aniket attributed overt act to the applicants having assaulted by bamboo stick. Deceased had sustained 49 injuries which has resulted in his death. It is submitted that there are criminal antecedents against the applicant No.1.

5. I have perused the statement of the witnesses. Statement of Bhagyawan does not indicate that the applicants were the person who had assaulted the deceased by Bamboo stick. Reference of the applicants is being made in his statement as a person who had stated that the deceased is being taken to the place of assault. The said witness had attributed overt act of assault to the other accused and not to the applicant. The statement of two other witnesses are similar. The statement of Aniket however refers to assault by the applicants with Bamboo stick however, the said statement was recorded on 15th March, 2018 and there is no reason as to why the statement of the said witnesses was recorded belatedly. The statement runs counter to the statement of other three witnesses referred herein above.

6. Taking into consideration the aforesaid circumstances, the case for grant of bail is made out on certain conditions.

ORDER

- i) Criminal Bail Application No. 1270 of 2018 is allowed.
- ii) The applicants are directed to be released on bail in connection with C.R. No. 653 of 2017 registered with Sakinaka Police Station which is subject matter in Session No. 66 of 2018 pending before the Sessions Court at Dindoshi on furnishing P.R. Bond of Rs.20,000/- (Rs. Twenty Thousand only) each with one or more sureties in the like amount;
- iii) The applicants shall attend Sakinaka Police Station once in a month on first Saturday between 10 a.m. to 12 noon till conclusion of trial;
- iv) The applicants shall not tamper with the evidence and/or influence the prosecution witnesses.
- v) The application stands disposed off.

Digitally
signed by
Sachidanand
Kuttan Nair
Date:
2018.09.05
12:01:49
+0530

(PRAKASH D. NAIK, J.)