

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

CR. BAIL APPLICATION No. 1722 of 2018.

Vishwajit Nagnath Jadhav	..Applicant.
Vs	
State of Maharashtra.	..Respondent.

Mr. Ritesh Thobde for the applicant.
Mr. N.B. Patil, APP for the State.
Mr. Santosh Bhagwan Bade, P.S.I. Pangri P.S.
Solapur Rural present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATE : 19TH SEPTEMBER, 2018

P.C:-

1) This is an application under Section 439 of Criminal Procedure Code for bail filed by the aforesaid applicant who is arrested in C.R.No. 273 of 2017 registered at Pangri Police Station, District Sholapur, for offences punishable under Sections 302, 324, 143, 147, 148 read with section 149 of Indian Penal Code.

2) Heard Mr. Ritesh Thobde, learned counsel for the applicant, Mr Patil, learned APP for the State. Perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3) At the outset, the learned APP submits that the bail application filed on behalf of the co-accused had been withdrawn when the Court was not inclined to grant the same. He has placed on record a copy of the order dated 4th July, 2018 and submits that in the light of the said order, this accused is not entitled for bail. The learned counsel for the applicant submits that at the time of filing of the application, factum of cross-complaint was not brought before this Court. Even otherwise, the order reveals that the application was withdrawn and no findings are recorded on merits of the matter. Hence, the same would not be a ground for summarily rejecting the application without going into the merits of the matter.

4) The records reveal that the subject crime was registered pursuant to the first information report lodged by Somnath Madhukar Dhumal. The FIR prima facie reveals that at about 5:00 p.m. on 8th November, 2017 there was a quarrel between Akshay Dhone, brother-in-law of the first informant and one Dagdu Shete. On the same day, at about 5:30 p.m. while said Akshay was narrating the above incident to the first informant, said Dagdu Shete came to the place of the incident along with four

unknown persons, within the age group of 22 to 30 years. The said four persons were armed with stumps; they abused and assaulted said Akshay. The first informant had stated that one of the persons had assaulted him by means of wooden stump and that when his uncle Ramling Nagnath intervened, the fourth unknown person assaulted said Ramling Nagnath, by giving blows of stumps on his chest and hand and by pelting stone on his leg. It is alleged that when the assailants saw people coming towards them from the locality, they fled away from the place of the incident.

5) It is to be noted that the first information report indicates that though the assailants were not known to the first informant, as on the date of lodging the FIR, he had learnt their names as Sunil Shete, Nagnath Giram, Nagnath Shantiling, Nagesh Jagdade and one Vishwajeet Jadhav. It is to be noted that the applicants were arrested on 9/11/2017, and the identification parade was belatedly held on 1st December, 2017, wherein the first informant had allegedly identified the applicant. As stated earlier, the names of the assailants were already disclosed to the first informant much prior to holding of the identification parade.

6) It is also to be noted that the first information report reveals that only one person was involved in inflicting injuries on deceased Ramling. There is nothing on record to indicate that the first informant who is also an injured person, has identified the applicant as the person who had inflicted injuries on said Ramling.

7) it is also pertinent to note that the statements of Akshya Dhone and Sadashiv Dhumal prima facie suggest that all four persons were involved in inflicting injuries on Ramling Nagnath. The postmortem report reveals that said Ramling had sustained only two injuries i.e. CLW on left parietal region and on left leg and that he expired due to cardio respiratory failure, due to injury on vital organ.

8) The records reveal that the applicant herein, had also lodged FIR against the first informant and others wherein he had alleged that the first informant and others had assaulted him and other co-accused. It is alleged that the applicant had also sustained head injury in the said incident.

9) The records thus prima facie reveals that there was a

free fight between both these groups in view of the previous incident that had occurred on 8th November, 2017 between Dagdu @ Hanumant Shete and Akshay Dhone.

10) The applicant is in custody since 9/11/2017. The case is of the year 2018, and considering the large pendency, the trial is not likely to commence in immediate future, the applicant is young boy of twenty years and long incarceration may turn him into a hardened criminal. Considering the above facts and circumstances and also considering that the applicant is a young boy of 20 years, I am of the considered view that this is a fit case for grant of bail on the following terms and conditions:-

i) Application is allowed.

(ii) The applicant be enlarged on bail in C.R. No. 273 of 2017 registered at Police Station Pangri, District Sholapur on his furnishing bail bonds of Rs. 50, 000/- with one surety in the like amount to the satisfaction of the learned Additional Sessions Judge, Barshi, District Sholapur.

(iii) After his release on bail, the applicant shall not enter village “Dhamangaon”, Taluka Barshi, District Sholapur until further orders.

(iv) The applicant shall attend all the dates before the trial Court.

(v) The applicant shall furnish his permanent and temporary addresses, if any, and his contact details to the Investigation Officer.

(vi) The applicant shall not change his residential address without prior intimation to the Investigation Officer.

(vii) The applicant shall not interfere with the complainant/first informant, other witnesses and shall not tamper with the evidence in any manner.

11) Application stands disposed of in the aforesaid terms.

(SMT. ANUJA PRABHUDESSAI, J.)