

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2056 OF 2018**

Jayesh @ J.H.Dive

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Aniket Nikam a/w. Mr. Ashish Satpute for the Applicant.

Mr. S.R.Agarkar, APP for the Respondent/State.

Mr. K.D.Wagh, API, Panchwati Police Stn., Nashik present.

CORAM : ANUJA PRABHUDESSAI,J.

DATED : SEPTEMBER 07, 2018.

P.C.

1. This is an application filed under Section 439 Cr.P.C. by the aforesaid applicant, who is facing trial in Sessions Case No. 261 of 2018 pending on the file of the learned Addl. Sessions Judge, Nashik. The said case arises from Crime No. I-201 registered with Panchwati Police Station, Nashik for the offences under Section 143, 147, 148, 212, 302 r/w. 149 and 120B of IPC and under Section 135 of the Bombay Police Act.
2. Heard Mr. Nikam, the learned Counsel for the applicant and the learned APP for the State.

3. The case of the prosecution in brief is that on 18th May, 2017 the co-accused Santosh Pagare and their associates formed an unlawful assembly, armed with deadly weapons and in persecution of common object they inflicted injuries on Kiran Nikam and caused his death.

4. The first informant as well as the eye witnesses Vishal Varule, Rahul Varule and Archana Nikam have not named the applicant. Mr. Nikam, the learned Counsel for the applicant submits that the witness, Lalu Pagare, whose statement was recorded about two months after the incident had stated that about 10-15 days prior to the incident, he had seen the applicant herein and one Bandu Murtedak who is a history sheeter, talking to the co-accused Santosh Ugade, Sagar Jadhav and ors. He submits that apart from the said statement, there is no other incriminating material against the applicant.

5. The learned APP concedes that apart from the said statement, there is no other incriminating material against the applicant. The statement of the said witness merely indicates that the applicant was talking to the co-accused about 10-15 days prior to the incident. This

fact, per se, would not prima facie lead to an inference that the applicant is involved in the crime or that he was involved in a conspiracy to commit the crime. Considering the above facts and circumstances, and considering the fact that the investigation is completed and the chargesheet is filed, in my considered view, this is a fit case for grant of bail. Hence the order:-

- (i) The application is allowed;
- (ii) The applicant who is facing trial in Sessions Case No. 261 of 2018 pending on the file of the learned Addl. Sessions Judge, Nashik. be released on bail on furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two solvent sureties in the like amount, to the satisfaction of the learned Addl. Sessions Judge, Nashik;
- (iii) The applicant shall report to the Panchwati police station on the first Monday of every month until further orders;
- (iv) The applicant shall not interfere with the witnesses or tamper with the evidence in any manner;
- (v) The applicant shall provide his permanent as well as temporary

address, if any, and his contact details to the Investigating Officer and in the bail bond;

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

(ANUJA PRABHUDESSAI, J.)