

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

ANTICIPATORY BAIL APPLICATION NO.1872 OF 2018

Mr.Zaid Ahmed Nafees Khan ... Applicant
V/s.
State of Maharashtra ... Respondent

Ms.Sushma T. Mishra for the Applicant.
Mr.A.R.Kapadnis, APP for the Respondent/State.
Mr.Valatkar, PI, Mumbra Police Station present.

**CORAM : PRAKASH D. NAIK, J.
DATE : SEPTEMBER 12, 2018.**

P.C.:

1. This is an application for anticipatory bail in C.R.No.I-342 of 2018 registered with Mumbra Police Station for the offence punishable under Sections 302, 323, 324 , 504, 506 r/w 34 of IPC.
2. The prosecution case is that on 1st July, 2018 at about 12.30 in the afternoon one Wasim Shaikh and one Nisar had come to the scene of offence. Being aggrieved by the fact that the brother of the complainant had teased 8 years old niece of Wasim and had started abusing the family members. The said persons started assaulting brother of complainant by bamboo

sticks. The incident had occurred on the staircase of the third and forth floor of the building. At the relevant time, the father of the original complainant intervened and tried to stop the assailants from assaulting his son. At that time the accused had forcefully pushed him. As a result of which the complainant's father fell down on the ground floor and had succumbed to the injuries sustained by him. Learned Advocate for the applicant submits that the cause of incident is the harassment to a minor child. There was no intention of causing death of the father of the complainant. Allegedly, during the midst of the quarrel the deceased was pushed which has resulted in his fall and death of the said person. The act would at the most would amount of rash and negligent act covered under Section 304-A of the IPC. The applicant is ready to co-operate with the investigation. Two other persons are arrested and they are in custody.

3. I have perused the First Information Report and papers of the investigation pointed out by the learned APP. On perusal of the statement, it is apparent that the applicant and two other persons were assaulting the brother of the complainant on account of alleged harassment to minor girl. While the

complainant's brother was being assaulted, the father of the complainant tried to stop the accused assaulting his son. It is the prosecution case that all the three accused have forcefully pushed father of the complainant as a result of which he fell down from three and half floors which had resulted in his death. The applicant and the other accused had assaulted the brother of the complainant and also used criminal force against the father of the complainant which resulted in his death. In the circumstances, the anticipatory bail cannot be granted to the applicant and thus, the application is rejected.

(PRAKASH D. NAIK,J.)

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Priya
Rajesh
Soparkar

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by Priya Rajesh
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