

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

CRIMINAL BAIL APPLICATION NO.2359 OF 2018

Devendra Narayan Patil .. Applicant

Vs.

State of Maharashtra .. Respondent

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Mr.Vivek V. Salunke i/b. Mr.Dinesh R. Shinde, Advocate for the Applicant.

Mr.Y.Y. Dabke, APP for the Respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 8, 2018.

P.C. :

This is an application for bail in connection with C.R. No.-I-95 of 2018, registered with Wada Police Station, District - Palghar, for the offences punishable under Sections 341 and 302 read with 34 of Indian Penal Code.

2 Prosecution case is that police received an information from Santosh Sutar on 16th April, 2018 that driver of the Container was being assaulted by the people and he had intervened and rescued him. It is alleged that the driver of the Container was deliberately driving very closely to the persons

who are driving motor-cycle. The driver also chased the wife of one Yogesh Patil and passed some lewd comments. The driver was apprehended by mob and he was assaulted with fists and kick blows and by bricks.

2 Investigating officer recorded statements of various persons including Santosh Sutar and on completing investigation, charge-sheet has been filed. Applicant was arrested on 17th April, 2018.

3 Learned counsel for the applicant submitted that the applicant has been falsely implicated in the crime. He was not present at the scene of offence. Learned counsel relied upon the statements of one of the witnesses in support of his submission that he was at different place at the time of incident. Statement of witness Ashwini Harishchandra Parad refers to the fact that at the time of the alleged incident, she had called the applicant, who was at different place and had disconnected the call which shows that he was not present at the scene of offence. It is submitted that the presence of the applicant is noticed by some of the witnesses, but no role of assault is attributed to him. Statement of Sanotsh Sutar was recorded under Section 164 of Criminal

Procedure Code, and in the said statement except referring the name of the applicant as one of the person present at the scene of offence, no role has been assigned to him. It is submitted that assuming that the prosecution case to be true, the incident had occurred on account of the conduct of the driver of the Container, who passed lewd remarks at one of the lady and that he chased her and tried to harass her. He was intercepted by mob and allegedly assaulted resulting in his death. The facts infer that there was no intention to commit murder. There are no antecedents against the applicant.

4 Learned APP drew my attention to the statement of witnesses who has referred to the presence of the applicant at the place of incident. It is submitted that the deceased had sustained serious injuries, which has resulted into his death. The deceased was assaulted by various persons by fist and kick blows and by brick on account of which he has sustained severe injuries.

5 Having gone through the charge-sheet, it is apparent that taking the prosecution case as it is, the role that has been assigned to the applicant is that he was present at the scene of

offence. Apparently, the driver was bring intercepted and he was assaulted by mob of people. The assault is the result of the objectionable conduct of the driver. No weapons were used in assaulting the driver of the Container. The assault was with fists, kick blows and bricks, which were lying near the place of incident. Statements of the wittinesses indicate that there was a mob of people and few persons know the applicant. In any case, from the documents on record, it cannot be assumed that there was any intention to commit murder. Applicant is in custody from the date of arrest. Investigation is completed and the charge-sheet is filed. There are no criminal antecedents against the applicant. Taking into consideration the aforesaid circumstances, case for grant of bail is made out.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.2359 of 2018, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.I-95 of 2018, registered with Wada Police Station, District – Palghar, on his furnishing P.R. Bond in the sum of

Rs.25,000/-, with one or more sureties in the like amount;

- (iii) Applicant shall report Wada Police Station, District-Palghar, on first Saturday of every month between 10:00 a.m. to 12:00 noon, till further orders;
- (iv) Applicant shall not tamper with the prosecution evidence;
- (v) It is clarified that the observations made in this order are *prima facie* for considering the reliefs prayed in this application and trial Court shall not be influenced by the same at the time of trial;
- (vi) Bail Application No.2359 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)