

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

BAIL APPLICATION NO. 2366 OF 2018

Nitin Sampat Ghegade

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. B.K. Barve, Sandeep Barve, Archana Lad I/b. B.K. Barve & Co. for the applicant.

Mrs. J.S. Lohokare, APP for the State.

Mr. Yuvraj Y. Saindane, PSI, Pimpalgaon Police Station, Nashik, present.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 17th OCTOBER, 2018.**

P.C.:

. This is an application under Section 439 of Criminal Procedure Code filed by the aforesaid applicant, who has been arrested in C.R.No.I-125/2018 registered with Pimpalgaon(B) Police Station, District Nashik for offences punishable under sections 307, 143, 147, 148, 323, 504, 506 of the Indian Penal Code r/w. Section 37 of Mumbai Police Act.

2. Heard Mr. B.K. Barve, learned counsel for the applicant and Ms. J.S. Lohokare, learned APP for the State. I have perused the records

and considered the submissions advanced by the learned counsels for the respective parties.

3. The aforesaid crime was registered pursuant to the first information report lodged by one Pundalik Bhagwan Sonawane. A perusal of the first information report prima facie reveals that on 06/08/2018, at about 10:00 p.m., while the first informant was outside the house, the applicant and other co-accused came armed with dandas and started abusing him. The first informant has stated that when his uncle-Rahul questioned the accused, the co-accused Mohit Gangurde stabbed him with a knife and that the other co-accused assaulted him by kicks and blows.

4. The statement of the injured also prima facie reveals that the Mohit Gangurde had stabbed him with a knife and that other co-accused had assaulted him with kicks and blows. Medical certificate also prima facie reveals that the injured had sustained only one stab injury. The material on record does not indicate that the applicant was armed with any deadly weapon or that he had inflicted any injury on the injured by means of the said weapon. The only role played by the applicant was that he had assaulted the first informant by kicks and blows.

5. It is true that section 149 of the Indian Penal Code recognises the principal of vicarious liability. However, the question whether the applicant shared the common object and whether he had acted in furtherance of common object, is a matter which will have to be decided on merits of the matter.

6. The applicant is in custody since 07/08/2018 and is presently in judicial custody. In my considered view, his presence is no longer required for the purpose of investigation. The applicant is a permanent resident of Pimpalgaon, Tal. Niphad. There is no possibility of the applicant absconding and/or thwarting the course of justice. The applicant has no criminal antecedents. The applicant is entitled for bail. Hence, the Bail Application is allowed on following terms and conditions :-

(a) The applicant who is arrested in C.R.No.I-125/2018 registered with Pimpalgaon(B) Police Station, District Nashik is ordered to be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Fifty Thousand) with one or two solvent sureties in the like amount.

(b) The applicant shall furnish his permanent address and temporary

address, if any, and his contact details to the concerned Court.

(c) The applicant shall not change his residential address without prior intimation to the concerned Court.

(d) The applicant shall not interfere with the first informant or the other witnesses in any manner and shall not tamper with the evidence.

(e) The applicant shall report to the Investigation Officer and in his absence to the Senior Police Inspector on 1st Monday of every month till framing of charge.

(SMT. ANUJA PRABHUDESSAI, J.)