

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

**BAIL APPLICATION NO.2598 OF 2018**

|                          |               |
|--------------------------|---------------|
| Ganesh Madhukar Shelke   | ...Applicant  |
| Versus                   |               |
| The State of Maharashtra | ...Respondent |

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Mr. Aniket Nikam with Mr. Vivek N. Arote for the Applicant.  
Mr. Rajan Salvi, APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.**

**DATED: 22<sup>nd</sup> OCTOBER, 2018.**

**P.C.:-**

This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who has been arrested in Crime No.91 of 2018 registered with Pimpalgaon Basvant Police Station, District-Nashik, for offences punishable under Sections 307, 427 r/w. 34 of the Indian Penal Code, 1860.

2. Mr. Aniket Nikam, the learned counsel for the Applicant submits that even if the allegations in the FIR are taken as true, the same do not constitute offence under Section 307 of the IPC. He submits that the investigation is concluded, charge-sheet has been filed and that the presence of the Applicant is no longer required in custody. He further submits that the co-accused have already been granted bail

by this court by order dated 15.10.2018 in Bail Application No.2711 of 2018. He submits that the Applicant, who is similarly placed, is also entitled for bail on the ground of parity.

3. Mr. Rajan Salvi, the learned APP for the Respondent -State submits that the FIR prima faice discloses that the Applicant was involved in assaulting the first informant. He submits that the offence is of serious nature and that the Applicant is not entitled for bail.

4. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. The aforesaid crime was registered pursuant to the FIR lodged by Karanjit Kuljitsingh Bajwa, who is the owner and driver of truck trailor No.MH 15 BJ 9499. A perusal of the FIR prima faice reveals that on 6<sup>th</sup> June, 2018 at about 9 a.m. he had proceeded to Nashik. He has stated that when he reached the Toll booth near Chandwad, the owner of the rickshaw bearing No.MH 15 DK 3217 had accosted him, alleging that his truck had almost brushed against his rickshaw. There appears to have been some altercation between the first informant and the owner/driver of the said rickshaw. The first informant claims that the owner of the said rickshaw thereafter called

some persons to the spot. Immediately thereafter, about 3-4 persons chased his truck and stopped him near the flyover bridge at Gurudutt Hotel. He has further stated that thereafter the said persons pelted stones and broke the glass of his truck, they pulled him out of the truck and assaulted him by iron rods and other weapons.

6. In the course of investigation, the Applicant was arrested. Identification parade was held and the supplementary statement of the first informant was recorded. The records prima facie reveal that the first informant has identified the Applicant as one of the assailants. The material on record thus prima facie reveals that the Applicant was involved in assaulting the first informant. However, the records reveal that the injuries sustained by the first informant were simple in nature. At this stage, there is no prima facie material to show that the Applicant herein had assaulted the first informant with an intention or knowledge of causing his death. Hence, in my considered view, prima facie the application of Sections 307 as well as 326 is doubtful.

7. The Applicant is in custody since 11<sup>th</sup> June, 2018. The investigation is concluded and charge-sheet has been filed. The presence of the Applicant is no longer required in custody. The

Applicant is a permanent resident of Pimpalgaon, Nashik and there are no chances of his absconding or thwarting the course of justice.

8. Considering the above facts and the fact that the co-accused Mehaboob Qutubuddin Shaikh and Sarfaraj Qutubuddin Shaikh, who were also identified as one of the assailants were released on bail by this Court, in my considered view the Applicant is also entitled for bail. Hence, the application is allowed on following terms and conditions:-

- (i) The Applicant, who is arrested in Crime No.91 of 2018 registered with Pimpalgaon Basvant Police Station, District-Nashik, is ordered to be released on bail on furnishing bail bonds of Rs.25,000/- with one or two solvent sureties in the like amount.
- (ii) The Applicant shall report to the investigation officer or in his absence to the senior P.I. of Pimplagaon Baswant Police Station on first Monday of every month between 11.00 a.m. to 2.00 p.m. until further orders.
- (iii) The Applicant shall provide his permanent as well as temporary address, if any, and his contact details to

the concerned investigation officer.

- (iv) The Applicant shall not change his residential address without prior intimation to the concerned investigation officer.
- (v) The Applicant shall not tamper with the evidence or interfere with the first informant or other witnesses in any manner.

**(SMT. ANUJA PRABHUDESSAI, J.)**

Megha  
Shridhar  
Parab

Digitally signed  
by Megha  
Shridhar Parab  
Date:  
2018.10.24  
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