

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

BAIL APPLICATION NO.2852 OF 2018

Taufiq Ahamad Dhanse ...Applicant.
Vs.
The State of Maharashtra ...Respondent.

**WITH
BAIL APPLICATION NO.2963 OF 2018**

Asgar Ahamnad Dhanse ...Applicant.
Vs.
The State of Maharashtra ...Respondent.

Mr.Rajendra Sorankar for the Applicants.
Mr.Ajay Patil, APP. for the State.
Mr.Amin Solkar with Ms. Misbaah Solkar and Rahla Memon for the Intervener.

**CORAM : A.S.GADKARI, J.
DATE 20th December, 2018**

PC :-

1. These are applications under Section 439 of the Code of Criminal Procedure for bail in CR No.29 of 2018 dated 1st May, 2018 registered with M.I.D.C. Police Staiton, District Raigad under Sections

143,147,148, 302, 323,504 read with Section 149 of the Indian Penal Code and other provisions of Bombay Police Act, 1951, now culminated into Sessions Case No.27 of 2018.

2. Heard Shri. Sorankar, the learned counsel for the applicants Shri. Solkar, the learned counsel for the first informant and the learned APP. Perused the charge sheet.

3. The applicants are accused Nos. 2 and 1 respectively as per the charge sheet.

4. The present crime is registered by the first informant Shri.Samir Mohiddin Hurzuq on 2nd May, 2018.

The prosecution case in brief is that, due to the dispute over the landed property, there was enmity between the deceased Mohiddin Hurzuq and his family members on one side and the applicants and their family members on the other side. That, on 1st May, 2018 at about 10.00 p.m. the applicants along with other 10 accused persons, assaulted Mohiddin Hurzuq (deceased) to the first informant with stone, stick, fist and kick blows. In the said assault Mohiddin Hurzuq got unconscious. He was taken to the M.M.A. Hospital, MIDC, Mahad

where he was declared brought dead.

During the course of investigation, the applicants are arrested on 3rd May, 2018 and after completion of investigation the police have submitted charge-sheet.

5. As per the record, the postmortem report/notes of Mohiddin Hurzuk indicates that, he suffered following three injuries.

a) Left side of left eye near eyebrow

Injury lateral 2x1 cm.

b) Right knee lateral, punctured wound seen.

c) Left knee abrasion

The Medical Officer has opined as to the probable cause of death is due to 'intra cranial bleeding, secondary is cardiopulmonary, arrest second to assault.

6. Mr. Solkar submitted that, the charge in the present case has already been framed by the Trial Court and therefore, the applicants may not be granted bail.

7. A minute perusal of the first information report and the post mortem notes would indicate that vital injury to the skull is

caused by accused No.6 Kamal Dhanse. The role attributed to the applicants is that they assaulted Mohiddin with sickle, fist and kick blows on his back. The co-accused Nos.5, 10 and 12 namely Akib Dhanse, Saklen Dhanse and Zulfikar Antule who are similarly situated have been granted bail by this Court by its Order dated 24.11.2018. The applicants are similarly situated with those accused persons and therefore, the applicants are entitled to be released on bail on the ground of parity.

Hence, the following order.

- a) The applicants be released on bail CR No.29 of 2018 registered with MIDC, Mahad Police Station, on their furnishing PR bond of Rs.25,000/- each with one or two solvent local sureties in the like amount.
- b) The applicants shall provide their permanent as well as temporary address, if any, and their contact details to the Investigating Officer and in the bail bond.
- c) The applicants shall not change their residential address without prior intimation to the Investigating Officer.

d) The applicants shall attend all the dates before the trial Court unless precluded on medical ground.

e) In case of any two consecutive defaults the prosecution is at liberty to file application for cancellation of bail.

f) The applicants shall not tamper with the evidence and /or influence the prosecution witnesses.

g) In case of any two consecutive defaults the prosecution is at liberty to file application for cancellation of bail.

It is made clear that the applicant shall co-operate to the Trial Court for expeditious hearing of the trial.

Applications are allowed in the aforesaid terms.

(A.S. GADKARI, J.)