

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

**BAIL APPLICATION NO. 114 OF 2019**

Vijay Dattatraya Adagale

...Applicant.

**Vs.**

The State of Maharashtra

...Respondent.

Mr. Kuldeep Nikam for Applicant.

Ms. Utkarsha Mane I/by Praveen A. Nalawade for Intervener.

Mrs. A.A. Takalkar, APP for the Respondent/State.

Mr. Sudhir Ghadge, PSI from Pune City Police Station present.

**CORAM : P.N. DESHMUKH, J.**

**DATE : 15TH MARCH, 2019**

**PC :**

1. One of the accused involved in CR No.384/2018 registered for the offence punishable under Section 302, 201, 143, 144, 147, 148, 149 of Indian Penal. Code under Section 4(25) of the Arms Act and u/s. 37(1) read with 135 of Bombay Police Act by Sinhgad Police Station, District Pune has filed this application for bail.

2. Learned counsel for applicant submits that there is absolutely no

evidence establishing the applicant's involvement in the present crime. It is contended that only evidence which needs consideration is statement of Amruta- sister of deceased who claims to have identified the applicant in identification parade. The second circumstance contended by applicant is recovery of applicant's shirt having blood stained upon it of which recovery is effected at the instance of co-accused Nilesh. It is further submitted that, so far as statement of Amruta identifying applicant is concerned cannot be put into service, as she being sister of deceased was knowing applicant as he was residing in the same area till one year prior to the incident and as such, Amruta was knowing applicant since prior to incident. With regards to seizure of clothes of applicant having blood stained, it is contended that recovery is effected at the instance of co accused from the Dickey of one vehicle where from apart from shirt of applicant other articles are also seized of which admittedly no Chemical Analyzer report is on record. It is thus prayed that application be allowed.

3. Learned APP. on instructions makes a statement that though

articles are sent to Chemical Analyzer, no report is received from the office of Chemical Analyzer.

Learned APP. had opposed the application however, could not controvert any of the submissions advanced for applicant as aforesaid which prima facie found to be convincing and thereby not establishing any case against the applicant showing his involvement in the present crime. Perusal of statement of Makrand, Aditya and other witnesses though establish that, on the day of incident in the night, applicant was seen in the company of deceased that by itself is not sufficient to hold applicant's involvement without any other corroborative evidence to these statements. Moreover, from their statements it could be seen that apart from applicant, at the material time deceased was in the company of co accused Sagar, Aniket, Mahesh and their friends Nilesh and Aditya who are his friends who are not made accused in the present crime. From the statements of Makrand and Aditya, in fact, it is found that, in the night of incident there was some quarrel between Aniket Pawar and deceased Akshay Pawar on the ground of fixing some flex on the building and applicant was pacifying deceased.

Moreover, statement of Makrand is by way of hear say.

Having considered the material collected against the applicant, prima facie, no case is made out against him. Application is therefore allowed as per the following order.

### ORDER

- a) Applicant Vijay Dattatraya Adagale shall be released on bail in CR No.384/2018 registered for offence punishable under Section 302, 201, 143, 144, 147, 148, 149 of Indian Penal. Code, under Section 4(25) of the Arms Act and u/s. 37(1) read with 135 of Bombay Police Act by Sinhgad Police Station, District Pune on his executing PR bond in the sum of Rs. 50,000/- with one surety in the like amount.
- b) On being released on bail, the applicant shall mark his presence on first day of each month for a period of six months and thereafter quarterly on the first day of each month pending trial.
- c) The applicant shall attend the trial court on fixed dates and shall not tamper with witnesses.

**(P.N. DESHMUKH, J.)**