

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

CRIMINAL BAIL APPLICATION NO. 415 OF 2019

Mukesh Anil Magar

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. Nitin Sejpai a/w Smt. Pooja Sejpai a/w Ms. Akshata B. Besai,
Advocate for the Applicant.

Mr. H. J. Dedhia, APP for the State-Respondent.

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CORAM : PRAKASH D. NAIK, J.

DATE : 16th December, 2019

PC :

1. This is an application for bail in connection with C.R. No. I-153 of 2018 registered with Satpur Police Station, Dist. Nashik for offences punishable under Sections 302, 364, 323 r/w Section 34 of Indian Penal Code.

2. The First Information Report was lodged at the instance of Mrunal Bhalchandra Ghodake on 21st May, 2018. It is mentioned that the Pramod Dangare had informed the witness that on the previous night he had accompanied Sunil Gangurde, Sudhir Bhalerao and Mukesh Magar (applicant). Harshal was found drinking liquor. He was picked up from the said place. He was made to sit on motorcycle and taken to Mahadevwadi. Sunil Gangurde, Sudhir Bhalerao and

Mukesh Magar (applicant) had quarreled with Harshal Salunkhe. At that time Harshal had threatened them. The accused assaulted him. He was taken to hospital by Pramod Dangare. Thus, the first informant is not eye witness to the incident. His statement is hearsay. He was provided the information by Pramod Dangare. Pramod has been impleaded as an accused. He is juvenile. The applicant was arrested on 22nd May, 2018. On completing investigation, charge-sheet is filed.

3. Learned advocate for the applicant submitted that there is no evidence to establish the involvement of the applicant in the crime. The EPR which is part of the charge-sheet shows that unknown person was admitted to hospital. According to the prosecution, C.C.T.V. footage with regards to the incident which had occurred in the Bar and Restaurant is recovered during the course of investigation. C.C.T.V. footage allegedly shows that the victim was assaulted and taken away by the accused. Statement of the owner of the Bar Shailendra Shetty was recorded on 21st May, 2018. He has referred to the incident of assault by unknown persons. He had handed over C.C.T.V. footage to the police. However, the said witness has not identified the applicants as assailants and the persons seen in C.C.T.V. footage assaulting deceased. No Test Identification Parade was conducted. There is no other eye witness to the incident.

Complainant had stated that information was provided by Pramod, who was impleaded as accused. Although the C.C.T.V. footage was recovered, there is no evidence to indicate that the person seen in the C.C.T.V. footage was applicant who had allegedly assaulted deceased. There is recovery of motorcycle from applicant. However, there is no strong evidence to show his involvement.

4. Learned APP submitted that the evidence against applicant is of C.C.T.V. footage. The accused was seen assaulting the deceased and taking him away. Subsequently he was assaulted at another place and he succumbed to the injuries.

5. Undisputedly, there are no criminal antecedents against the applicant. Taking into consideration aforesaid circumstances, case for grant of bail is made out.

6. Hence, I pass the following order.

ORDER

- i) Bail Application No. of is allowed;
- ii) The applicant is directed to be released on bail in connection with C.R. No. I-153 of 2018 registered with Satpur Police Station, Dist. Nashik on his furnishing PR. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;

- iii) The applicant shall report concerned police station once in a month on every first Saturday between 10.00 am. To 12.00 noon till further order.
- iv) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)