

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

CRIMINAL BAIL APPLICATION NO. 545 OF 2019

Vivek Sikandar Yadav	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.Sudeep Pasbola a/w. Mr.Bhaves Thakur and Mr.Karl Rustomkhan
i/b. Mr.Rahul Arote for Applicant.
Mr.Amit Palkar, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.

DATE : 15th March 2019.

P.C. :

1] This is an application under Section 439 of the Code of Criminal Procedure for bail in C.R. No. I-65 of 2018 dated 25/03/2018 registered with Chitalsar Police Station, Thane, for the offence punishable under Section 364, 302, 201 read with 34 of the Indian Penal Code.

2] Heard the learned counsel for the applicant and the learned APP for the respondent-State. Perused the chargesheet.

3] It is the case of the prosecution that, Ms.Chandni Yadav, the sister of co-accused Gopal Yadav and Ratanlal Yadav, was having love affair with Vasim Rashidfakir Khan (deceased). That on 25th March 2019 between 2 to 2.15 pm Ms.Chandni Yadav had been to Viviana Mall at Thane to meet Vasim Khan. When she was chit-chatting with him, on the opposite road of Viviana Mall, the co-accused Gopal Yadav and Arshad Khan saw her and assaulted Vasim Khan with fist blows. The co-accused Gopal Yadav thereafter called his brother Ratanlal Yadav and the applicant at the said place and it is alleged that thereafter the accused persons abducted Vasim Khan and took him near Dharamvir Nagar, Tulshidham, Thane. It is alleged that, thereafter, the accused persons assaulted the deceased with broken glass bottles, fists and kick blows. The accused persons thereafter ran away from the scene of offence. Due to the said assault, the deceased succumbed to injuries on the spot. The said incident was witnessed by Mr.Shakti Dhongde. He called the police at the scene of offence. During the course of investigation, the applicant came to be arrested on 26th March 2018 and after completion of investigation police have submitted the chargesheet.

4] The record indicates that the first informant and witness to

the crime have failed to identify the applicant as one of the assailants. He has identified other two persons who have assaulted the deceased with broken glass bottles. It is submitted that there are no antecedents against the said applicant.

5] In view of the above, the applicant can be released on bail.

Hence, following order.

- (i) The applicant in C.R. No.I-65 of 2018 registered with Chitalsar Police Station, Thane, be released on bail on his furnishing P.R. Bond of Rs.25,000/- alongwith one or two solvent sureties in like amount.
- (ii) The applicant shall not tamper with the prosecution evidence and not to give any threats to the informant or witnesses.
- (iii) The applicant shall attend each and every date before the trial Court unless precluded on medical grounds. The Prosecution is at liberty to file an application for cancellation of bail in case of two consecutive defaults.
- (iv) Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]