

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 637 OF 2019**

Danish Mushtaque Ahmed SayedApplicant.

Vs.

The State of MaharashtraRespondent.

Ms. Priyanka Dubey for the Applicant.

Mr. Ajay Patil, APP, for the Respondent-State.

Mr. Jaydeep Gaikwad, P.I., Agripada Police Station.

CORAM : A. S. GADKARI, J.

DATE : 27th MARCH, 2019.

P.C.:-

This is an Application under Section 439 of the Code of Criminal Procedure for bail in CR No. 257 of 2018 dated 21st October, 2018 registered with Agripada Police Station, Mumbai under Sections 307, 506(2), 323, 504 read with Section 34 of the Indian Penal Code and under Sections 37(1)(A), 135 of Bombay Police Act.

2 Heard the learned counsel appearing for the Applicant and the learned APP. Perused the charge sheet.

It is the prosecution case that, due to the earlier enmity between the victim Akash Jadhav and co-accused Akash Swami on 22nd October, 2018 at about 3.45 a.m., the Applicant alongwith co-

accused Aakash Swami and absconding accused Naresh G. Nandgaonkar came at the scene of offence and assaulted the victim with Bamboo stick and knife. It is alleged that, the co-accused Akash Swami assaulted the victim with knife on his stomach, thereby causing 3 incised wounds due to which the intestine had protruded out from the abdominal cavity.

During the course of investigation, the Applicant came to be arrested and after completion of the investigation, police have submitted charge sheet.

3 The statements of witnesses indicate that, after the Applicant along with co-accused Akash Swami and absconding Accused Naresh Nandgaonkar came at the scene of offence, the Applicant took Bamboo stick lying at the scene of offence and started assaulting Akash Jadhav. When the Applicant and absconding accused Naresh Nandgaonkar were assaulting Akash Jadhav, it is the co-accused Akash Swami who took out a sharp edged weapon/knife which was concealed to his waist and inflicted blows with it in the stomach of the victim. It *prima facie* appears that, the Applicant did not share common intention with co-accused Akash Swami of causing grievous hurt, who was armed with a sharp edged weapon/knife,

which was concealed to his waist.

4 In view of the above, Applicant can be released on bail.

Hence, the following order.

- a) The Applicant be released on bail in CR No. 257 of 2018 dated 21st October, 2018 registered with Agripada Police Station, Mumbai on his furnishing PR bond of Rs.20,000/- with one or two local solvent sureties in the like amount.
- b) After his release from Jail, the Applicant shall attend all the dates before the Trial Court unless exempted by the concerned Court.
- c) Any two consecutive defaults in complying with the afore-stated condition will attract the provisions of cancellation of bail.
- d) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.
- e) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)