

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

BAIL APPLICATION NO.794 OF 2019

Dipak Datta Vawal	..	Applicant
Vs.		
State of Maharashtra	..	Respondent

Mr.Raju D. Suryawanshi for the applicant.
Mr.M.G. Patil, APP for the respondent-State.

CORAM : P.N. DESHMUKH, J.
DATE : 1st April 2019

P.C.:

. Heard learned counsel for applicant and learned APP for respondent-State. Perused copy of charge-sheet which is filed with this application. This application is for bail by one of accused involved in C.R.348 of 2017 registered with Indira Nagar Police Station, Nashik.

2. Learned counsel for applicant, apart from merits, sought bail on parity with that of co-accused Krishna Shinde who is released on bail by this Court by an order dated 22nd January 2019 holding that said accused except for being present at the spot at the time of incident is not attributed with any overt act. Learned counsel by referring to FIR and statement of eye-witnesses had demonstrated role of applicant to be similar to that of co-accused Krishna Shinde and has sought bail on parity.

3. Even on merits, it is contended that from statement of eye-witnesses, apart from being present on the spot, role attributed to applicant is that of his holding deceased along with co-accused Bablu who is directed to be released on bail by the trial Court. In the background of above evidence, it is prayed that application be allowed. Learned APP opposed application on the ground that there is direct evidence.

4. Perusal of the order of this Court would reveal entitlement of applicant therein to be released on bail since except for his presence on the spot, no overt act is attributed to said applicant. In fact applicant therein was attributed role of holding of sickle but since there is no case that he assaulted deceased by sickle and was said to be present on the spot, he is released on bail.

5. Perusal of report would reveal similar involvement of applicant. As except for naming of applicant in FIR, there is no overt act attributed to him but assault is attributed to Ravi Nikalje, Sachin Nikalje by sword and koyta on Devidas due to which he sustained bleeding injuries and succumbed to injuries.

6. Statement of eye-witness Abhishek Shirsat would reveal presence of applicant and overt act attributed to him of he is holding deceased along with co-accused Bablu while co-accused Nitin Pandit who is attributed role of abusing deceased. Admittedly, co-accused Bablu and Nitin Pandit are released on bail while co-accused Krishna who is similarly situated is released on bail by this Court. From statement of other eye-witnesses namely Santosh Kadam, Alka Kadam, her husband Dagu Shelke, similar role is attributed to applicant. From Post Mortem notes, cause of death of deceased is due to Hemorrhagic Shock due to multiple stab injuries to chest and abdomen. According to Post Mortem notes, deceased sustained as many as 9 wounds out of which 3 are stab wounds and other are incise wounds which are possible by sharp edged weapon. Having regard to role of applicant as discussed above, application is liable to be allowed as per order below :-

ORDER

- (i) Applicant in C.R. No.348 of 2017 registered with Indira Nagar Police Station, Nashik for offences punishable under Sections 302, 143, 147, 148, 149 of IPC shall be released on bail on his executing P.R. Bond in the sum of Rs.50,000/- with one surety in the like amount;
- (ii) While on bail, applicant shall mark his presence with Indira Nagar Police Station, Nashik on first day of each such month initially for period

of 6 months and thereafter quarterly on the first day of such month pending trial;

(iii) Applicant shall attend trial Court on the fixed dates without fail and shall not tamper with witnesses ;

(iv) Learned Trial Court shall not get influenced with the observations made hereinabove and shall evaluate evidence independently at the time of trial.

(v) Application is disposed of in above terms.

P.N. DESHMUKH, J.