

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

BAIL APPLICATION NO. 913 OF 2019

Mr. Vikas Jayram Wakade

...Applicant.

Vs.

State of Maharashtra

...Respondent.

Mr. V.M.Thorat I/by M.S.Kulkarni for Applicant.

Mr. Prashant Jadhav, APP for the Respondent/State.

CORAM : P.N. DESHMUKH, J.

DATE : 23rd April, 2019

PC :

1. Accused No.1 involved in CR No.16/2018 registered by Mandava Sagari Police Station, Alibag, District- Raigad has applied for bail. Admittedly charge sheet is filed and out of total six accused involved in this crime all are released on bail by trial court. Learned counsel for applicant mainly press this application for bail on the ground of parity with co-accused Vishal Wakade and has

contended that though the role attributed to said co-accused and applicant is similar, co-accused is released on bail however without observing applicant's involvement in any manner, learned trial court rejected his application. It is therefore, contended that application be allowed on the ground of parity with co-accused.

2. Learned APP opposed the application and has contended that in an incident of assault applicant is attributed with two blows on the head of deceased while co accused Vishal is attributed with one blow on the head of deceased and as such had made an attempt to differentiate the case and has therefore prayed that application is liable to be rejected as there is direct evidence.

3. Perusal of documents filed along with the charge sheet would reveal that deceased Amrit died due to head injury. According to post mortem notes Medical Officer has certified that deceased has sustained four external injuries on head of which corresponding injuries are to skull causing his death. In the background of post mortem notes, perusal of report lodged by

Akshay Mhatre as well as statement of eye witnesses Ravi, Siddharth and Archana wife of deceased when perused would reveal that at the time of incident applicant along with co accused Vishal and Abhijit were armed with iron rod and in an assault applicant gave two blows of iron rod on the head of deceased. Similar role is attributed to co accused Vishal who is released on bail as it is in the statement of eye witness that at the time of incident said co accused committed assault by iron rod on the head of deceased and had also assaulted injured Pradeep Wakade while co accused Abhijit assaulted injured Siddharth.

4. Having considering the role attributed to applicant by complainant as well as by other injured eye witnesses and wife of deceased, it is found that role attributed to applicant is similar to that of co accused Vishal Walkade as both of them had committed assault by iron rod on the head of deceased which injuries according to post mortem notes prove to be fatal causing death of deceased. In the background of above discussion and evidence on record against the accused persons, perusal of impugned order rejecting the applicant's bail by

trial court would reveal that same is rejected only on considering that said applicant had assaulted deceased Amrit on his head by iron rod and according to post mortem notes there is injury on head however, the trial court does not appear to have noted that, co-accused Vishal had also assaulted on the head of deceased. Having considering the above facts as case of applicant is found at par with co-accused Vishal, following order is passed.

order

A) Applicant shall be released on bail in CR No.16 of 2018 registered with Mandva Sagari Police Station, Alibag, District Raigad for the offences punishable under Sections 302, 307, 326, 324, 323, 141, 144, 147, 148, 149, 504, 506 of the I.P.C. and under Section 37(1), 135 of Maharashtra Police Act on executing PR bond in the sum of Rs.1,00,000/- with one surety in the like amount.

b) Applicant shall mark his presence with Mandava Sagari Police Station, Alibag, District Raigad on the first day of each month initially for a period of six months and thereafter once quarterly on the first day of each such month.

- c) Pending trial applicant is restrained from entering within the limits of village Sasavane, Taluka Alibag , District Raigad.
- d) The applicant shall co-operate with the Investigating officer.
- e) Application is accordingly disposed off.

(P.N. DESHMUKH, J.)