

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1066 OF 2019

Amol Madhukar Gadekar

Applicant

versus

The State of Maharashtra

Respondent

Mr.Vikas B. Shivarkar for applicant.

Smt.Veera Shinde, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 18th December 2019

PC :

1. The applicant is seeking bail in CR No.268 of 2018 registered at Bharti Vidyapeeth Police Station, Pune for offences under Sections 302, 341, 504 r/w 34 of Indian Penal Code. The applicant was arrested on 31st May 2018.

2. The brief facts of the prosecution case are that on 31st May 2018 the first informant had lodged the FIR. According to him he is having transport container vehicles and he is conducting his business in the name of NIS Transport. One Lalji Bandhu Pal was working as driver on his vehicle. On 29th May 2018 logistic material was lodged on the vehicle from Bangalore to Bhiwandi. Lalji Pal was driving six tyre vehicle. The vehicle of complainant was behind the vehicle of Lalji. On 31st May 2018, at about 8 pm they stopped the vehicle for dinner on Pune-Satara road. On 31st May 2018, at about 1.15 am they left from hotel towards Bhiwandi. The vehicle of Lalji was stopped near bridge. One vehicle was also stopped near his vehicle. Two persons were assaulting Lalji with fist and kick blows. The complainant stopped his vehicle and separated the assailants from the victim. Lalji told him that while taking turn at Katraj at about

1.55 am, the left side mirror of the vehicle was dashed to the assailants' vehicle. They stopped the vehicle of Lalji and started assaulting him. The victim told him that he has been assaulted and he should be taken to hospital. The victim was then taken to hospital where he succumbed to the injuries. Pursuant to the arrest of applicant, investigation is completed and charge sheet is filed.

3. Learned counsel for applicant submits that the applicant has been falsely implicated in this case. He is not instrumental in assaulting the deceased. Assuming the contents of FIR to be true, the applicant cannot be attributed the intention to commit murder. The history provided for the medical treatment at the time of admission of victim indicate that the applicant had admitted him to the hospital. It is further submitted that the version of witnesses is after thought.

4. Learned APP submitted that for flimsy reason the victim was mercilessly assaulted. He had sustained head injuries. The statements of witnesses and the complainant clearly establishes involvement of applicant in crime. Learned APP pointed out the form for admission of patient in the hospital. The said document refers the name of complainant, however, there is no reference to the applicant. The post mortem report shows that the victim had died on account of head injury. Thus, there are strong circumstances showing involvement of applicant.

5. I have perused the documents on record. The incident had arisen on account of dashing the mirror of the accused vehicle. The complainant was informed about assault by the victim. He had

reached at the spot at a later stage. The statement of eye witnesses were recorded on 3rd June 2018 and 29th July 2018. The case paper of Kashibai Navle General College and Medical Hospital indicate the history recorded that the container driver was going towards Mumbai, the container dashed with jeep. The name of the applicant is shown on the medical case paper issued by out patient department. The statement of eye witnesses were recorded belatedly. No weapon is used in commission of crime. It is alleged that the head of victim was banged by the applicant. There are no criminal antecedents against applicant. In the circumstances, case for grant of bail is made out.

6. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application NO.1066 of 2019 is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.268 of 2018 registered with Bharati Vidyapeeth Police Station, Pune, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report Bharati Vidyapeeth Police Station once in a month on every first Saturday between 10 am and 12 noon till further orders;
- (iv) The applicant shall not tamper with evidence and shall attend Trial Court proceedings regularly, unless exempted by the Trial Court for some reason.

(PRAKASH D. NAIK, J.)