

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

CRIMINAL BAIL APPLICATION NO. 979 OF 2018

Mohd. Javed Jafir Ansari	... Applicant
Vs.	
The State of Maharashtra	... Respondent

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Mr. K.H.Giri for the applicant.
Mrs. A.A. Takalkar, APP for the Respondent-State.
Mr. Suresh Aher, PSI is present.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 21st FEBRUARY, 2019.**

P.C.

1. This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant was arrested on 3rd June, 2017 in connection with C.R. No. 141 of 2017 registered with Ulhasnagar Police Station for the offence punishable under section 302 of Indian Penal Code. First Information Report was lodged on 3rd June, 2017.

2. The prosecution case is that the victim was employed in a bakery owned by one of the accused. It was suspected that that victim was committing theft of cell phones. On the day of incident, deceased was tied with rope and assaulted with wooden stick and iron rod. It was found that on account of assault, the victim had fallen unconscious and thereafter the doctor was called.

The relative of the victim was also informed about the incident. The victim was declared dead and in pursuant to that First Information Report was lodged.

3. Learned counsel for the applicant submitted that there was no intention to commit murder of the deceased. Although, it was alleged that the motive of the crime was to teach lesson to victim who was stealing cell phones. There is nothing on record to corroborate the said fact. Injuries on the body of the deceased indicate that there was no intention to commit murder and the victim was assaulted on legs and not on vital parts of the body. Co-accused Shahbaz Ansari has been granted bail by this Court.

4. Learned APP submitted that there is eye witness to the incident. Victim was mercilessly assaulted. There is recovery of weapon used by the applicant from him.

5. On perusal of the chargesheet, it is apparent that it was suspected that victim is involved in the theft of cell phones. He was assaulted by accused. P.M. Report indicate that contusion were appearing on wrist, leg, thigh etc. P.M. Report further refers one injury of contusion on left of chest and 6 to 8 rib. Statement of eye witness indicate that victim was assaulted mostly on the non- vital part of the body. After realizing that he was

unconscious, the information was provided to the relatives and victim was taken to hospital for treatment. *Prima-facie*, it appears that there was no intention to murder the victim. Applicant is in custody from 3rd June, 2017. There are no criminal antecedents against the applicant. Hence, I pass the following order.

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No.I-141 of 2017 registered with Ulhasnagar Police Station on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. Applicant shall report to the concerned Police Station once in a month on first Saturday of every month between 11 a.m. to 1 p.m. till further order;
- iv. It is clarified that observations made in this order are only to consider the application for bail and trial Court shall not be influenced by the same at the time of trial;

(PRAKASH D. NAIK, J.)