

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

CRIMINAL BAIL APPLICATION NO. 1031 OF 2018

Mr. Santosh @ Nandu Anil Kurhade ... Applicant.

V/s.

The State of Maharashtra ... Respondent.

Mr. Pravin H. Padave, Advocate, for the Applicant.

Mrs. A. A. Takalkar, APP for the State.

(Mr. Yash Palve, PSI, Powai Police Station, is present.)

CORAM : PRAKASH D. NAIK, J.

DATE : FEBRUARY 28, 2019.

PC :

1 The Applicant is arrested on 13.03.2017 in connection with CR No. 109 of 2017, registered with Powai Police Station for the offence under sections 143, 147, 148, 149, 302, 324, 34, 109 of the Indian Penal Code.

2 The prosecution case is that the complainant, deceased and other witnesses were assaulted by the applicant and other accused. On 13.03.2017 at about 12.15 hours, when the complainant and others noticed that some persons were dancing by playing music outside the house of Seeta Todankar, as it was a holi festival. At that point of time, some of the witnesses were questioned by the applicant-accused and

he asked the complainant, as to why he was asking mobile number of Deepa. Other persons then intervened in the quarrel and thereafter, the accused assaulted the deceased and others by bamboo sticks and then took out beer bottle, broke it and again assaulted the deceased. The applicant is attributed role of assaulting the deceased on his thigh, by giving blows of broken bottle of beer, as a result there was bleeding. The victim succumbed to the injuries. The statement of the witnesses were recorded and the chargesheet was filed.

3 Learned counsel for the applicant submitted that all other five co-accused were granted bail by the Sessions Court. The incident had occurred at spur of moment. Beer bottle was lying at the scene of offence which was used to assault victim. The applicant is in custody from the date of his arrest.

4 Learned APP submits that there are eye witnesses to the incident. The complainant and the deceased have been assaulted by the applicant. The applicant has been attributed overt-act of assaulting the deceased by broken beer bottle. Although the witnesses were trying to stop, he continued to assault the victim. The applicant again chased the victim and assaulted.

5 Heard learned counsel for the applicant and learned APP. Perused the chargesheet. The incident had

occurred during midnight on the day of Holi festival while dancing. The incident occurred at spur of moment, when the accused had questioned one of the witnesses for demanding mobile of one of the accused. The role attributed to the applicant is of assaulting the victim by fist blows and blows by broken beer bottle. Prima facie, there was no intention on the part of applicant to commit murder. There are no criminal antecedents against the applicant. On certain terms and conditions, bail can be granted to the applicant. Hence, I pass following order :

ORDER

- i. Bail Application No. 1031 of 2018 is allowed.
- ii. The applicant is directed to be released on bail in connection with CR No. 109 of 2017, registered with Powai Police Station, on furnishing PR Bond in the sum of Rs. 20,000/- with one or more sureties in the like amount.
- iii. Applicant shall not approach the brother of the complainant or other prosecution witnesses.
- iv. The Applicant shall not shall not enter within the jurisdiction of Powai Police Station.

- v. The applicant shall furnish details of his place of residence to the investigating officer, after his release.
- vi. The applicant shall attend the trial court regularly on the date of the hearing of the case unless exempted by the trial court.

Bail application is disposed of.

(PRAKASH D. NAIK, J.)

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