

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

CRIMINAL BAIL APPLICATION NO. 1510 OF 2019

Akshay Jalindar Tikudave Patil	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.Arun Rajpoot i/b. Ms.Anjali Patil for Applicant.
Ms.J.S. Lohakare, APP for the State.
Ms.Manjusha Eknath Mulule, PSI, Trombay Police Station.

CORAM : A.S. GADKARI, J.

DATE : 12th December 2019.

PC. :

1] This is a successive application for bail. The earlier application preferred by the applicant was dismissed as withdrawn by granting liberty to the applicant to file a fresh application for bail before the Trial Court, if the trial arising out of C.R. No.249 of 2017, registered with Trombay Police Station does not commence within a period of 9 months from the date of passing of the said Order i.e. from 4th July 2018.

In pursuance of the said Order dated 4th July 2018, the applicant preferred bail application below Exhibit-22 before the Trial Court in Sessions Case No.17 of 2018. By the impugned Order dated 8th April 2019, the Trial Court has rejected the said application.

2] It is the prosecution case in brief that, the applicant along with three other co-accused committed murder of Badal Prakash Ubale due to earlier enmity between them. That on the date of incident i.e. in the wee hours of 8th September 2017 initially there was a quarrel between Badal Ubale (deceased) on one hand and the applicant and co-accused on the other hand. Initially Badal Ubale assaulted the applicant and other co-accused. That the applicant and co-accused thereafter decided to eliminate Badal Ubale to stop his menace and accordingly, the applicant held hair of Badal Ubale and banged his head on a paver block which was lying thereto. The accused persons further assaulted Badal Ubale mercilessly and threw his body on railway track near Mankhurd Railway Station. The First Information Report is lodged by Akash Ubale on 8th September 2017. After completion of investigation, the police have submitted charge-sheet.

3] The learned counsel for the applicant submitted that, the co-accused namely Atul Gole has been released on bail by the Trial Court by its Order dated 20th November 2019 and therefore, the applicant also deserves to be released on bail on the ground of parity.

4] The record clearly indicates that, there are at-least two eye witnesses to the incident who have categorically stated that, after the initial tiff between Badal Ubale and accused persons when Badal Ubale started assaulting the accused persons, they decided amongst themselves to kill Badal Ubale and

accordingly, the applicant held hair of the deceased Badal Ubale and banged his head on a paver block which was lying on the road. The other accused persons also mercilessly assaulted deceased. The witnesses have further stated that, apart from the applicant, co-accused Dattatray Khutvad and Ajay Suryavanshi also assaulted Badal Ubale with paver blocks on his head. The postmortem notes of the deceased prima-facie corroborates the version of the witnesses.

5] It is to be noted here that, in the case of Atul Gole, the Trial Court in its order dated 20th November 2019 has observed that, the said accused was not present at the scene of offence at the relevant time near the railway line and none of the witnesses have named him and it is the ground which has weighed in the mind of the Trial Court while releasing the said accused Atul Gole on bail. However, in the present case, as noted earlier, there are at-least two eye witnesses who have categorically attributed role to the applicant.

6] Thus, prima-facie it appears that, there is more than sufficient material available on record to show the clear complicity of the applicant in the present crime.

As per the report submitted by the Investigating Officer to the Public Prosecutor, the applicant is also involved in two other crimes namely, (1) C.R. No.138 of 2014, U/sec.326, 323, r/w.34 of IPC and (2) Cr.No. 245 of 2017, U/sec. 354, 509, 323, 504, 506 r/w.34 of IPC.

7] In view of the above, this Court is of the view that, the applicant does not deserve to be released on bail.

Application is accordingly rejected.

[A.S. GADKARI, J.]