

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

CRIMINAL BAIL APPLICATION NO.1524 OF 2019

Ahmed Afak Khan .. Applicant

Vs.

State of Maharashtra .. Respondent

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Mr.Ganesh Gole i/b. Mr.Ateet Shirodkar, Advocate for the Applicant.

Mr.S.V. Gavand, APP for Respondent – State.

PSI Landage, Dharavi Police Station, Mumbai, present.

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**CORAM : PRAKASH D. NAIK, J.
(CHAMBER MATTER)**

DATED : SEPTEMBER 25, 2019.

P.C. :

This is a second application for bail. The previous application viz. Bail Application No.1995 of 2018 was rejected by this Court on 25th January, 2019.

2 Learned counsel for the applicant submitted that the material on record would indicate that the offence would not fall under Section 302 of Indian Penal Code as there was no intention to commit murder. The incident is result of free fight between two groups. It is further submitted that the complainant in the

present case is an accused in the cross case and he was granted bail by the Sessions Court. While granting bail to the said person in the cross FIR, it was observed by Sessions Court that the incident had arisen on account of free fight. Learned counsel also submitted that the incident had occurred at the spur of moment and hence it cannot be said that there was an intention to commit murder. Learned counsel also pointed out the postmortem report which refers to the cause of death being Hemorrhagic shock due to transection of external iliac artery due to stab wound to right thigh. It is submitted that there is inconsistency between the statement of the witnesses and the medical evidence. There is no progress in trial. Whereas the learned APP submitted that the charge has been framed against the accused. It is also pointed out from the postmortem report and more particularly column no.17 of the said report that deceased had sustained about 10 injuries. The earlier application was rejected on merits and review is not called for.

3 The earlier application was rejected by assigning detailed reasons. I do not find any reason to deviate from the view taken in the earlier application. Specific role was attributed to applicant. The submissions are to be appreciated during trial

as matter of evidence. The charge have been framed against the accused. Considering the fact that the applicant is in custody from 9th February, 2018 and the factual matrix of this case, trial Court is directed to proceed with the trial expeditiously.

4 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.1524 of 2019, is rejected;
- (ii) Trial Court shall proceed with the trial expeditiously;
- (iii) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)