

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1887 OF 2019**

Nitin Nandkumar Dhoble	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Madan Gupta for the Applicant

Ms. P. P. Shinde, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 18th SEPTEMBER 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 653 of 2017 registered with the Sakinaka Police Station, Mumbai, for the alleged offences punishable under Sections 141, 142, 143, 144, 146, 147, 148, 149, 363, 364, 203, 109, 114, 120B r/w 34 of the Indian Penal Code.

3 Learned counsel for the applicant seeks bail on the ground of parity. He submits that identically placed co-accused have been released

on bail by this Court and that bail has been granted to the said co-accused, disbelieving the statement of the sole eye-witness-Aniket Jaiswal.

4 Learned A.P.P states that there is no parity with the co-accused-Swapnil Fatkale. She relied on the statements of Bhagyawan Kaver and Sandesh Dhurandar. She submits that the applicant was seen carrying a bamboo stick by the said witnesses. She further submits that the deceased-Akash had sustained as many as 49 injuries, as evidenced from the post-mortem report.

5 Perused the papers. According to the prosecution, the incident took place on 7th November 2017. It is alleged that deceased-Akash was assaulted by several persons with a bamboo stick, which resulted in 49 injuries and ultimately in his death. The statement of Bhagyawan Kaver shows that on 7th November 2017 at about 12:30 a.m to 1:00 a.m., he had returned home after work. He has further stated that on the way to his residence, when he was chatting with Somu Dhurandar, Akash Chagan Landge came there and they started chatting. He has further stated that Akash disclosed to him that some incident had taken place, pursuant to which, Barkya Shetty and his associates started running after him to assault him. He has further stated that the said persons were searching for him.

He has further stated that Akash told them, that he had torn one poster, on which there was a picture of Barkya Shetty. He has further stated that just then, he saw 10 to 15 motorcycles coming in their direction, pursuant to which, he warned Akash and they ran in the lane. He has stated that 15 to 20 boys came to the said spot. Amongst them, was Barkya Shetty, the applicant, Phatya, Masoda, Aditya, Shubham, Ani and others. He has further stated that the said persons took Akash along with them on a motorcycle. According to the said witness i.e. Bhagyawan Kaver, the present applicant and Masoda with their associates, armed with bamboo stick came in their direction. It is alleged that Barkya Shetty stated that the said persons should also be assaulted like they assaulted Akash, pursuant to which, the said persons started assaulting him. It is alleged that the present applicant assaulted Pawan and Somu, however, all of them fled from the spot. The statement of Sandesh Dhurandar who was also present on the spot, is similar to the statement of Bhagyawan Kaver. The said statements clearly show the presence of the applicant at the spot and that the applicant was armed with a bamboo stick and that he along with other accused had taken deceased-Akash to another spot, where deceased was assaulted. It also appears that after assaulting the deceased, the applicant came back to the spot and assaulted the said witnesses i.e. Sandesh and Pawan. The deceased sustained as many as 49 injuries on his person. The applicant has

one antecedent registered vide C.R. No. 385 of 2016 for the alleged offence punishable under Section 324, 506, 34 of the Indian Penal Code. The possibility of the applicant tampering with the witnesses cannot be ruled out.

6 Considering the aforesaid, this is not a fit case to enlarge the applicant on bail. The application is accordingly rejected. However, the trial of the applicant is expedited.

7 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.