

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

CRIMINAL BAIL APPLICATION NO. 1721 OF 2018

Vijay Mahadev Padwal	... Applicant
Vs.	
State of Maharashtra	... Respondent

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Mr. Hrishikesh Mundargi for the applicant.
Ms. A.A. Takalkar, APP for the Respondent-State.
Mr. A.L. Bargalhi, PSI, Kala Chowki Police Station is present.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 1st NOVEMBER, 2018.**

P.C.

1. This is an application for bail in CR No. I-284 of 2017 registered with Kala Chowki Police Station Mumbai for offence punishable under Sections 302 read with 34 of Indian Penal Code. Applicant was arrested on 16th November, 2017.

2. Prosecution case is that on 15th November, 2017, the complainant had gone to meet his friends in Rangari Chowk area. The complainant received a call from one Pravin Pawaskar who informed him that his brother Vaibhav has been involved in fight. The complainant went to the spot of incident and noticed that accused No.2 Jagadish was running with the Bamboo in his hand.

Applicant was also running from the spot of incident. Injured was taken to hospital where he was declared dead. During the course of investigation, the statement of witnesses were recorded. Primarily the prosecution is relying on the statements of Sanket Pawar and Rahul Palav which were recorded on 18th November, 2017 and 20th November, 2017 and there are other similar statements also recorded during the course of investigation. On completing investigation, chargesheet is filed.

3. Learned advocate for the applicant submitted that applicant has been falsely implicated in this case. Only role which is attributed to him is that he had assaulted the victim by bamboo stick on his leg. The other witnesses has not attributed any role to the applicant. Co-accused Jagdish is alleged to have assaulted the deceased by bamboo stick by giving blow on his head. Bamboo stick was allegedly lying at the place of incident. Applicant is in custody from the date of arrest. Investigation is completed and the chargesheet has been filed. There are no antecedents against the applicant.

4. Learned APP submitted that there are eye witnesses to the incident. The presence of the applicant at the scene of offence is

established by the witnesses. The applicant had also assaulted the deceased by bamboo stick. The statement of the witnesses is also supported by medical evidence as there are injuries on the legs of the deceased. Applicant had assaulted the deceased by blow of bamboo on the legs of deceased Vaibhav. The offence is serious. The assault resulted into the death of victim.

5. I have perused the documents on record. The First Information Report was lodged by one Nilesh Yadav on 16th November, 2017. He has stated that on receipt of information he visited the spot. Co-accused Jagdish was carrying bamboo in his hand and running from the place of incident. The applicant was also running from the place of incident. He also noticed that there were blood stains at the place of incident and that his brother Vaibhav had sustained injury. The statement of Sanket Pawar recorded on 18th November, 2017 indicated that co-accused Jagdish had assaulted the deceased Vaibhav by giving blow of Bamboo stick on his head. The applicant was also carrying bamboo stick. The witnesses however has not stated that applicant has assaulted the victim by bamboo. The said witnesses stated that applicant had thrown the bamboo stick and left the

place. The statement of Rahul Palav however refers to the fact that Jagdish had assaulted deceased Vaibhav. The applicant caught hold of the deceased. The applicant also gave blow of bamboo stick on the legs of deceased Vaibhav. The statement of the said witnesses was recorded on 20th November, 2017. Other witnesses refers to the presence of the applicant. Witness Yogesh refers to the motive for assaulting the deceased. The brother of the accused was mentally handicapped and he was being harassed by the deceased. Considering the role assigned to the applicant and also considering the fact that investigation is completed and chargesheet has been filed and there are no criminal antecedents against the applicant, the case for grant of bail is made out. 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. 284 of 2017 registered with Kala Chowki Police Station on furnishing P.R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- iii) Applicant shall attend concerned Police Station once in a

month on first Saturday between 10 a.m. to 12 noon till further order;

iv) Applicant shall not tamper with the evidence and/or influence the prosecution witnesses;

v) Applicant shall attend the trial Court regularly on the date of hearing unless exempted by the Court;

vi) The application stands disposed off.

(PRAKASH D. NAIK, J.)