

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

CRIMINAL BAIL APPLICATION NO. 2149 OF 2019

Shubham Ramesh HangrageApplicant

V/s

The State of Maharashtra ...Respondent

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Mr. Debajyoti Talukadar, Advocate for the Applicant.

Mr. S.H. Yadav, APP for State-Respondent.

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CORAM : PRAKASH D. NAIK, J.

DATE : 6th November 2019

PC :

1. The applicant is arrested on 2nd April 2019 in connection with C.R. No. 657 of 2018 registered with Bharti Vidyapeeth Police Station for offences punishable under Section 302, 143, 147, 148, 149 and 120(B) of Indian Penal Code along with Section 4(25) of Arms Act and Section 37 (1) (3) with 135 of Maharashtra Police Act.

2. The case of the prosecution is that the deceased Vinayak was assaulted by the accused. Some of them were armed with weapons and the others had assaulted by fist and kick blows. The FIR was lodged by Ganesh Shirke on 07/12/2018. He is not an eye witness to the incident. However he was informed about the incident by friends of the deceased namely Sandip Gejge and Vikas Dhumal.

3. There is no reference of name of the applicant in the First Information Report. The statements of eye witnesses Sandip Gejge and Vikas Dhumal were recorded on 7/12/2018 and 8/12/2018 respectively. Both these witnesses have referred to the incident of assault and have attributed overt act to the assailants. It is pertinent to note that this witnesses have not referred to the names of the applicant as one of the assailants. They have also not stated that some other unknown persons had also participated in the assault. However, statement of witness Somnath Dattatray Gade was recorded on 10/12/2018. For the first time, the name of the applicant is reflected in the said statement as one of the person who assaulted the deceased by fist and kick blows.

4. Ld. Counsel for the applicant submitted that two other persons namely Bala Renuse and Atul Bhokan Whose names were also referred for the first time in the statement of Somnath Gade and were attributed overt act of assaulting the victim by fist and kick blows was granted bail by the Sessions Court. Reliance is placed on the order passed in favour of the said accused granting bail to them. Ld. Counsel also pointed out that in the order granting bail co-accused Rohit Renuse, it is mentioned that the co-accused Shubham Suryavanshi is also granted bail. Pertinently name of the said accused is referred as one of the participants in the FIR and in

the statement of the eye witness.

5. It is also submitted that, there was recovery of weapon from the co-accused namely Umesh Raut. He is also granted bail. It is also brought to my notice that one of the eye witness Vikas Dhumal was put up in the test identification parade for the identification of the suspects which included the applicant and in the said parade he has failed to identify the applicant as one of the assailant. The other eye witnesses were not put in the parade.

6. Ld. APP submitted that the applicant / accused is involved in serious crime and his name has been referred by Somnath Gade. However, as stated herein above, the name of the applicant is reflected for the first time on 10/12/2018 and the role attributed to the applicant is of assaulting by fist blows. The other eye witnesses to the incident have not referred to the presence of the applicant at the scene of offence. Taking into consideration the aforesaid circumstances, the case for grant of bail is made out.

7. Hence, I pass following order.

:: O R D E R ::

- (i) Bail Application No.2149 of 2019, is allowed;
- (ii) The applicant is directed to be released on bail in

connection with C.R. No. 657 of 2018 registered with Bharati Vidyapith Police Station, Pune, on furnishing PR. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

(iii) The applicant shall attend Bharati Vidyapith Police Station, Pune, once in a month on first Saturday of the month between 10:00 a.m. to 2:00 p.m. till further order;

(iv) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)