

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

CRIMINAL BAIL APPLICATION NO. 2296 OF 2018

Suhas Prabhakar Shinde

... Applicant

Vs.

The State of Maharashtra

... Respondent

...

Mr. N.S. Mundargi I/by Mr. Sachin B. Thorat for the applicant.

Mr. S.R. Agarkar, APP for the Respondent-State.

Mr. Balasaheb Nikumbh, PSI, Wagle Estate Police Station is present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 17th JANUARY, 2019.

P.C.

1. Applicant is seeking bail in connection with the CR No. I-206 of 2017 registered with Wagale Estate Police Station for the offence punishable under Sections 302, 307, 143, 147, 148, 149 of Indian Penal Code. First Information Report was lodged by one Pramod Ramesh Vishwakarma. The applicant was arrested on 1st November, 2017.

2. It is alleged in the First Information Report that on 20th October, 2017, the accused armed with weapons, assaulted deceased Prashant. The assailants were named as Raj Parab,

Ashish Gurav, Akshay Khatyal, Manglu Aditya Jadhav and Chinmay. It is also alleged that apart from the persons who were named in the First Information Report, there were other unknown persons who had participated in assault. Investigation proceeded and statement of various witnesses were recorded. Subsequent statement of Pramod Vishwakarma was recorded on 30th October, 2017 in which he has stated that assailant Aditya Shivaji Jadhav and Chinmay Dattaraya Shinde who were named in FIR with overt act were not assailants in the alleged incident. Subsequently statement of another witnesses Akash Sonwane was recorded on 29th October, 2017 in which he had named the persons who had assaulted deceased. He also referred to presence of other unknown person. Subsequent statement of said witness was recorded on 30th October, 2017 in which he has exonerated accused Aditya Jadhav and Chinmay Shinde as assailants although in the initial statement they were shown to be involved in assault. Both witnesses have not named applicant as assailant. Statement of Vicky More was recorded on 1st November, 2017. He is eye witnesses to incident. He has not named applicant and referred to involvement of persons named and unknown persons. Statement of Sushat Sonawane, Himanshu Gawali, Anand Singh, Vikrant

Bhabal, Tushal Patil, Rakesh Sarjekar were recorded during the course of said investigation. Said witnesses who had purportedly accompanied the assailant at the place of incident. These witnesses had not referred the name of the applicant as person who is involved in the crime. Other than that there are five eye witnesses to the incident even said witnesses have not referred name of the applicant. However, said witnesses have identified applicant during the identification parade which was conducted on 5th January, 2018. However, in pursuant to the identification parade, no statement has been recorded to show as to what role was played by the applicant in commission of the crime.

3. Learned APP submitted that in the light of identification of the applicant, his involvement is established and therefore he is not entitled for bail.

4. However, considering aforesaid circumstances, more particularly the fact that the assailants were exonerated in the subsequent statement and in absence of role of applicant at the time of commission of offence, further custody of the applicant is not called for. Hence, applicant is entitled for bail.

ORDER

i. Criminal Bail Application is allowed;

- ii. Applicant is directed to be released on bail in connection with C.R. No. 206 of 2017 registered with Wagale Estate Police Station on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
- iii. Applicant shall report to the concerned Police Station once in a month on first Saturday between 11:00 a.m. to 1:00 p.m. till further orders;
- iv. Applicant shall not temper with the prosecution witnesses;
- v. Applicant shall attend the dates of hearing before the Trial Court, unless exempted by the Court;
- vi. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)