

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2452 OF 2019

Mr. Nilesh Hiranman Gawade ..Applicant

Versus

The State of Maharashtra ...Respondent

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Ms. Shubhangi Parulekar, Advocate for the Applicant.

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

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CORAM : PRAKASH D. NAIK, J.

DATE : 15th November, 2019

PC :

1. The applicant is seeking bail in C.R. No. 36 of 2018 registered with Paud Police Station, District Pune for offence punishable under Section 302 r/w Section 34 of Indian Penal Code.

2. The First Investigation Report (for short "FIR") is lodged by brother of the deceased. The first informant Pravin's brother Sachin @ Raju was brutally assaulted with sharp weapons on 02/02/2018 near Rotmalnath Mandir in Village Lavale. The first informant had not seen the incident. He lodged his FIR at around 2.46 a.m. on 03/02/2018. The C.C.T.V. footage had captured the incident of assault. However, the charge sheet shows that the assailants were not properly visible in the C.C.T.V. footage. Investigation was conducted

and the Applicant was arrested on 10/04/2018. Investigation is over and the charge-sheet is filed. In all 7 accused were arrested including the present Applicant.

3. There are 3 eye witnesses to the incident namely Bajarang Kavitike, Bharat Malekar and Atul Garud. Although they had seen the incident, they were not knowing the assailants except one Vishal Takle. Identification Parade is not conducted. The evidence against the Applicant is that at his instance, Koyta was recovered on 14/04/2018.

4. The eye witnesses do not name the applicant. Admittedly, there is no Test Identification Parade. The co-accused Omkar @ Chikya Sham Pathak has been granted bail by this Court vide order dated 04/06/2019 passed in Bail application No. 535 of 2019.

5. Learned APP submitted that sickle was recovered from the applicant. There are antecedent against the applicant. Per contra, learned counsel for the applicant submitted that in all the cases applicant have been acquitted. The Judgments delivered by the Trial Court acquitting the applicant were produced. It is pertinent to note that though the blood on weapon was found to be human, the blood group could not be detected. The C.C.T.V. footage was not clear. The recovery was allegedly made from the applicant from under wooden ply and tin sheets near the Bajara crops near applicants' house. The

applicants' case is on par with the co-accused who has been granted bail by this Court.

6. In view of the above facts, the applicant deserves to be released on bail. Hence, order as follows.

ORDER

- i) The Applicant be released on bail in connection with C.R. No. 36 of 2018 registered with Paud Police Station, District Pune, on his furnishing PR. bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- ii) The applicant shall attend the trial Court diligently on each date and shall not tamper with the prosecution evidence.
- iii) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)