

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

BAIL APPLICATION NO.2559 OF 2019

Akash Suresh Dangade	.. Applicant
<i>Vs.</i>	
State of Maharashtra	.. Respondent

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Mrs.Tripti R. Shetty, Advocate for the Applicant.
Mr.S.H. Yadav, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : DECEMBER 17, 2019.

P.C. :

This is an application for bail in connection with C.R.No.371 of 2016, registered with Pimpri Police Station, Pune City, for the offences punishable under Section 143, 147, 149 and 302 of Indian Penal Code (“IPC”, for short). The applicant was arrested on 20th June, 2016.

2 The brief facts of the prosecution case is that the son of the complainant had gone to petrol pump to fill up petrol in vehicle alongwith his friends. The accused also came there. Several persons assaulted the victim by fist and kick blows. One of them had picked up two cement blocks lying near the place of

incident and some of the accused had assaulted the victim by the cement blocks. As a result of the assault, the victim had sustained several injuries and he died. The statement of two witnesses were recorded. On completing investigation charge sheet is filed.

3 Learned Counsel for the Applicant submits that there is contradictions in the version of the witnesses. The complainant are not the eye witness. Laxmikant Naik, Anna @ Ashish Shine, Atul Gore were the alleged eye witnesses to the incident. It is submitted that the co-accused attributed role of assaulting the victim by cement block was granted bail by this Court. Several other accused participated in the crime were also granted bail by the Sessions Court. The Applicant is in custody for a period of three and half years. There are no criminal antecedents against the applicant. The applicant has not been identified by the eye witnesses put up for identification parade.

4 learned APP submitted that the offence is of serious nature. Several accused had acted in furtherance of common intention and assaulted the victim. The applicant had assaulted the victim by cement block. The evidence discloses that the applicant had given repeated blows on the deceased. The role of

the co-accused who has been granted bail by this Court can be distinguished. The other accused granted bail were attributed role of assault by fist blows. There is consistency in the statement of witnesses qua the role attributed to the applicant. The assailants were identified by the witnesses. The incident was witnessed by several persons whose statements were recorded.

5 I have perused the charge-sheet. The first informant is not the eye witness to the incident. He had given the account of the incident as informed to him by witness Laxmikant Naik. The first informant had stated that he was informed by Laxmikant Naik that several persons had assaulted the victim by fist and kick blows. Kiran and Tushar assaulted by cement blocks on head and other parts of body of the victim. Applicant assaulted by cement block repeatedly on the victim. Statement of Laxmikant was recorded on 20th June, 2016. He has stated that Kiran @ Akash had brought two cement blocks lying near the place of incident and gave blow on the head of the victim. Applicant had assaulted by cement blocks on 6 to 7 times. Statement of Atul Gore and Anna @ Ashish Shinde were recorded. They have stated that the person wearing half T-Shirt had assaulted by cement block on the head of the deceased. He has also stated that other

persons had also assaulted the victim by cement blocks. The witnesses further stated that the names of the assailants were informed to them by Laxmikant Naik. On that basis he has named the applicant as well as Tushar Manjalkar. Statement of Anna Shinde and Atul Gore were recorded. Statement of Ashfak who had accompanied the victim was also recorded. However, he has not seen the incident of assault and thus was not an eye witness to the incident. Witness Laxmikant Naik, Atul Gore and Anna alias Ashish Shinde were put up for identification of accused in Test Identification Parade. The three eye witnesses have not identified the applicant in the parade. It is relevant to note that Atul Gore and Anna Shinde had referred to names of the applicant as per the information received from other witness Laxmikant Naik. On account of failure to identify, doubt is created with regards to their version reflected in their statement. The other evidence is recovery of CCTV Footage. During the investigation, the statement of Suresh was recorded. He stated that in CCTV Footage he identified Akash Chavan, Tushar Manjalkar and Akash Dangade. It is pertinent to note that Tushar Manjalkar has been granted bail by this Court. The question arises for consideration is that on the failure of identification of the applicant as an assailant, how much importance could be given to the statement

of Shyam Devkar. There are apparently contradictions between the statements of Laxmikant Naik and the complainant. The other accused attributed role of assault with fist blows were granted bail by this Court and the Sessions Court. The applicant is in custody for the period of three and half years. There are no criminal antecedents against him. Hence, case for bail is made out.

6 Hence, I pass the following order:

:: O R D E R ::

- (i) Bail Application No.2559 of 2019, is allowed;
- (ii) The Applicant is directed to be released on bail in connection with C.R.No.371 of 2016, registered with Pimpri Police Station, Pune City, on his executing P.R. Bond in the sum of Rs.50,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall not enter within the jurisdiction of Pimpri Police Station, Pune, and Chinchwad area, till conclusion of trial;

(iv) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)