

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

CRIMINAL BAIL APPLICATION NO.2751 OF 2019

Nilesh @ Nilu Jagapati YadavApplicant

V/s.

The State of MaharashtraRespondent

Mr. Niranjan A. Mundergji, for Applicant.

Mr. H. J. Dedhia, APP, for the Respondent- State.

CORAM : PRAKASH D. NAIK, J.

DATE : 18th December, 2019

P.C.:

1. The applicant is seeking bail in connection with CR No.I-523 of 2017 registered with Kashimira Police Station, Thane for offences punishable under Sections 302, 307, 323 read with Section 34 of the Indian Penal Code, 1860.

2. First Information Report lodged on 27th October 2017 by Kartik Shetty. The case of the prosecution is that the complainant was called by one Novesh Shetty at Samadhan Hotel on 26th October 2017. The complainant and another person named Ganesh Pujari went there by motorcycle. The complainant noticed that the quarrel was going on between Omkar @ Omi Arun Takla and Sujeet Mishra.

The complainant tried to pacify them. At that time Sujeet Mishra called some one and gave phone to the complainant and told him to speak to Dinesh shah. Thereafter, the complainant spoke to one Dinesh Shah who told him to resolve the quarrel and see that Sujeet Mishra who was accompanied by his girl friend leaves the place. Novesh, Nikhil, Niles and others came out of the hotel. They saw complainant trying to resolve dispute. Novesh also attempted to pacify them. Sujeet did not like intervention. Sujeet pushed Novesh. At that time, Nikhil slapped Sujeet stating that Novesh was trying to pacify the quarrel and Sujeet had no reason to push him. At that time two friends of Sujeet came on motorcycle. There was scuffle between Nikhil, Novesh, complainant, Sujeet and two friends. The glass of window was broken as hand of complainant hit window. Sujeet took pointed piece of glass and assaulted Nikhil on abdomen. Sujeet chased Nikhil. Ganesh and Novesh tried to catch him. Friends of Sujeet assaulted complainant and others to prevent them from nabbing Sujeet. Complainant was assaulted by helmet. Sujeet gave blow by sharp glass on the neck of Novesh. His friends assaulted him by fist / kick blows. Novesh sustained injury. He died. It is alleged that the applicant and other accused had obstructed witness from apprehending the prime accused. The

applicant/accused was arrested on 14th June 2019. On completing investigation, chargesheet has been filed.

3. The applicant/accused had preferred an application for bail before the Sessions Court which was rejected vide order dated 27th June, 2018.

4. The case of the prosecution is that the applicant/accused had participated in the crime. He was instrumental in obstructing the witness from preventing the prime accused from assaulting the deceased and injured. It is the prosecution case that the motorcycle was seized during the course of investigation. Identification parade was conducted. Applicant is not identified. Presence of accused is established in CCTV footage. It is contended that the CCTV Footage would indicate that the applicant was segregating persons involved in the assault and thereafter, left the place. Incident had occurred thereafter.

5. On perusal of the documents on record, it can be seen that the role attributed to the applicant is of assaulting the deceased and the injured by fists blows. It was not a premeditated assault. The role of assaulting by sharp edged glass was attributed to the other accused and not the applicant. The applicant was not armed with any

weapon. He has allegedly given fists blows. Co-accused shailendra Singh has been granted bail by this Court vide order dated 1st February 2019, passed in Bail Application No.2805 of 2019.

6. Considering the aforesaid aspects and the fact that the investigation is completed and charge sheet is filed, further detention of the applicant/accused is not necessary. Considering the aforesaid circumstances, case for grant of bail is made out.

7. Hence, I pass following order;

ORDER

- (i) Bail Application No.2751 of 2019 is allowed;
- (ii) The applicant is directed to be released on bail in connection with CR No.I-523 of 2017 registered with Kashimira Police Station, Thane, on furnishing P.R bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report concerned police station once in a month on every first Saturday between 11:00 a.m. to 1:00 noon till further order.

(iv) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)