

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2945 OF 2019

Kashif Shabbir Shaikh

...Applicant

V/s.

The State of Maharashtra  
(Vide D.N. Nagar Police Station  
in their C.R. No. 327 of 2017)

....Respondent

\*\*\*\*

Mr. Bharat K. Manghani, Advocate for the applicant.

Mrs. J.S. Lohakare, APP for State.

**CORAM : SANDEEP K. SHINDE, J.**

**Thursday, 21<sup>st</sup> November, 2019.**

**P.C. :**

1. Heard learned Counsel for the parties.
2. Mohsin Mehboob Shaikh, complainant reported on 16<sup>th</sup> May, 2017 that the applicant assaulted the deceased persons by cricket bat on their head. His statement under Section 164

Criminal Procedure Code is consistent with his first report. In the scuffle, the other accused inflicted serious injuries on two deceased persons; Anjum Waadri and Sadiq Shaikh. The offence came to be registered under Section 302 of the Indian Penal Code.

3. The learned Counsel for the applicant seeks enlargement on bail in C.R. No. 327 of 2017 registered with D.N. Nagar Police Station. The learned Counsel submits, there is variance in the statement of the complainant and the statement of eye-witness, Salman . He points out, Salman did not attribute role to the applicant. Learned Counsel further pointed out, Rafiq (brother of deceased, Anjum Wadri) removed Anjum to the Hospital soon after the incident and informed Medical Officer, that five to six unknown persons assaulted his brother. Submission is, in view of the variance in the statement and non-disclosure of applicants' name at the first instance, he may be released on bail.

4. The next submission is two accused, Jahid (accused no.2) and Tariq (accused no.4) are released on bail by this Court. It is submitted that, there are no criminal antecedents against the applicant and he is in jail since 16<sup>th</sup> May, 2017. On these grounds, his enlargement on bail is sought.

5. The learned APP submits, the name of the applicant is disclosed in the complaint and assault by cricket bat on the vital part of the body of the deceased persons is the role attributed to him. She submits, the statement of the complainant has been recorded under Section 164 of the Criminal Procedure Code and it is consistent with his first statement. It is submitted that, Rafiq (brother of deceased, Anjuman Waadri) has also attributed role to the present applicant. In view of the accusations and the evidence available on record, the Bail Application is rejected and disposed off.

(SANDEEP K. SHINDE, J.)