

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

CRIMINAL BAIL APPLICATION NO.2676 OF 2018

Kadresh Muthaiya Pariyar	..	Applicant
Vs.		
State of Maharashtra	..	Respondent

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Mr.Milan A. Hebbali, Advocate for the Applicant.
Mr.A.R. Kapadnis, APP for respondent - State.

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CORAM : PRAKASH D. NAIK, J.

DATE : JANUARY 28, 2019.

P.C.

This is an application for bail in connection with C.R.No.288 of 2016, registered with Malad Police station, Mumbai, for the offences punishable under Sections 302, 143, 144, 145, 147, 148, 149, 120-B and 201 of Indian Penal Code ("IPC" for short). Applicant was arrested on 12th July, 2016.

2 The case of the prosecution is that on 16th June, 2016, Malad Police Station,Mumbai, received message that one person is being assaulted and hence they proceeded at the place of incident. The injured Jayram Nadar was admitted in Shatabdi Hospital. There was assault by unknown person. Statement of son of Jayram Nadar was recorded. The deceased was the Secretary of Shantivinayak Mandir and Member of Dharavi Nadar Samaj Society. On 14th April, 2016, he had raised objection for erection of

Vachnalaya near Om Shakti Vinayak Mandir. On 16th June, 2016, complainant was informed that his father has been injured and his uncle proceeded to the hospital and came to know that some unknown persons have assaulted the deceased.

3 Investigation commenced. On completing investigation, charge - sheet is filed.

4 It is contended by the counsel for the applicant that there is no direct evidence against him to show his involvement in the crime. The applicant is not the assailant. He has been falsely implicated on account of enmity. Applicant has not played any role in the crime. Except stating that CCTV Footage indicates that the applicant was passing through the place of the crime, there is no other evidence against him. It is submitted that the applicant is in custody since June 2016. further custody is not necessary. It is also submitted that the co-accused has also granted bail.

5 Learned PP submitted that there is sufficient evidence against the applicant. Evidence clearly shows the involvement of the applicant in commission of murder. There is recovery of weapons used in the crime from the applicant. CCTV Footage were also recovered from the place of incident. The deceased was brutally murdered. It is submitted that the case of the co-accused is different and the applicant cannot claim parity. I have perused the documents on record. There was enmity

between the deceased and the accused. Statements of witnesses show the involvement of the applicant in the crime. It is the case of the prosecution that the deceased was assaulted by using sickle by four unknown persons. The statement of eye witness Babu Shetty was recorded on 17th June, 2016. Statement of Bhola Sav indicates that four persons had stayed in the lodge. Statement of Nityanand Nadar refers to enmity between the applicant and has also stated that at the relevant time the CCTV Footage shows that at about 22:15 hours the applicant was found chasing the deceased on motorcycle. He has also stated that two persons had stayed with the applicant. The statements of other witnesses also attributes similar role to the applicant. Statements of witnesses also indicate that while the assailants were assaulting the deceased, another accused came at the spot and was instructing them as to how they could flee from the place of incident. The case of the prosecution is that the applicant is the person at whose instance the assailants have murdered the deceased. There is recovery of weapons as well as CCTV Recorder. Applicant cannot claim parity. *Prima facie* there is sufficient evidence showing involvement of the applicant in the crime. Hence, no case is made out for grant of bail to the applicant. Hence, Bail Application is rejected.

(PRAKASH D. NAIK, J.)