

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

BAIL APPLICATION NO.3094 OF 2019

Rajendra Ganpat Salekar	.. Applicant
<i>Vs.</i>	
State of Maharashtra	.. Respondent

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Mr.Aniket Nikam i/b. Mr.Vivek N. Arote, Advocate for the Applicant.

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

Mr.Balasaheb Deshmukh, Advocate for Original Complainant.

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CORAM : PRAKASH D. NAIK, J.

DATED : DECEMBER 17, 2019.

P.C. :

The applicant is seeking bail in connection with C.R.No.100 of 2019, registered with Bharsti Vidhyapeeth Police Station, Pune City, for the offence punishable under Section 307 read with 34 of Indian Penal Code ("IPC", for short). First Information Report ("FIR", for short) was lodged on 22nd January, 2019. The applicant was arrested on 23rd January, 2019.

2 The FIR was lodged alleging that the victim has been assaulted some persons. The first informant is eye witness to the

incident. Subsequently, statements of eye witnesses were recorded. From the contents of the statement of the witnesses, it appears that the accused and the victim was consuming liquor. The victim were assaulted by accused with cement block. He was admitted in the hospital. The victim died on 8th October, 2019. The prosecution has preferred an application for converting the charge under Section 302 from Section 307 of IPC.

3 Learned counsel for the applicant submits that the applicant has not been attributed any overtact of assaulting the injured. He submitted that the injured had expired after a period of about ten months. The offence under Section 302 of IPC is not made out. Investigation is completed and the charge - sheet is filed.

4 Learned APP submitted that the applicant is the main accused. He is the conspirator. The victim was assaulted after conspiracy was hatched by the accused. The co-accused had assaulted the victim with blow of cement block, which has resulted in his death.

5 Learned counsel for the intervenr reiterated the submissions advanced by learned APP. It is submitted that the applicant was instrumental and is the main person behind the crime. The act is done in furtherance of common intention. Applicant was present at the place of incident. He pointed out the statements of the witnesses recorded during the course of investigation, which according to him indicate that the applicant had knowledge and he was instrumental in killing the deceased. It is further submitted that the informant was threatened by the relatives of the complainant and N.C. complaint has been lodged in connection with the same. There are antecedents against the applicant. Hence, bail may not be granted to the applicant.

6 Perused the FIR. The applicant is in custody from the date of arrest. On completing investigation, charge - sheet has been filed. The applicant has not been attributed role of assaulting the deceased. The statements of the witnesses recorded during the course of investigation indeed refers to the presence of the applicant. However, the assault is attributed to other accused. The victim has died after the period of about 10 months from the date of incident. The prosecution has pointed out that there are some antecedents against the applicant. One

case is registered in the year 2007 under the Bombay Police Act. 2nd case was registered in 2005 under the Maharashtra Prohibition Act, 3rd case is of 2018 relating to the offence under Section 394 of IPC and the 4th case is registered under Section 279 of IPC. N.C.

7 Considering the overtact attributed to the applicant and also considering the fact that applicant is in custody from 23rd January, 2019, bail can be granted on stringent conditions.

6 Hence, I pass the following order:

:: O R D E R ::

- (i) Bail Application No.3094 of 2019, is allowed;
- (ii) The Applicant is directed to be released on bail in connection with C.R.No.100 of 2019, registered with Bharati Vidhyapeeth Police Station, Pune City, on his executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

- (iii) Applicant shall stay out of the jurisdiction of Bharati Vidhyapeeth Police Station, Pune, till conclusion of the trial;
- (iv) Applicant shall not approach the witnesses and shall not tamper with the prosecution evidence;
- (v) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)