

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

CRIMINAL BAIL APPLICATION NO.2805 OF 2018

Shailendra Fateh Bahadur Singh

...Applicant

Versus

State of Maharashtra

...Respondents

Mr.Bhavesh Thakur i/b. Mr.Rahul Arote for the applicant.

Mr.Prashant Jadhav, APP for the respondent – State.

Mr.Kiran Memane, PS, Kashimira Police Station present.

CORAM : PRAKASH D. NAIK, J.

DATE : 1st FEBRUARY 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. 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, 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. 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 immediately. Novesh and others came out of the hotel and tried to pacify the quarrel. 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 other friends of Sujeet came on motorcycle. Sujeet assaulted Nikhil by sharp glass in his abdomen. Sujeet also assaulted Novesh by the piece of pointed sharp glass. Sujeet's friends assaulted Novesh by fists blows. As a result of injuries, Novesh died. It is alleged that the applicant and other accused had obstructed witness from apprehending the prime accused. The applicant/accused was arrested on 6th November 2017. 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 and the accused was identified. Presence of accused is established in CCTV footage.

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. The fight occurred between two groups in spur of the moment. 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.

6. Considering the aforesaid aspects and the fact that the investigation is completed and chargesheet 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.2805 of 2018 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 his furnishing PR bond in the sum of Rs.25,000/- with one ore more sureties in the like amount;
- (iii) The applicant shall attend the concerned police station once in a month on the first Saturday of every month between 11.00 am to 1.00 noon till further orders;
- (iv) Bail Application stands disposed.

[PRAKASH D. NAIK, J.]