

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

CRIMINAL BAIL APPLICATION NO. 3162 OF 2018

Bhaskar Narayan Nurangikar

... Applicant

Vs.

The State of Maharashtra

... Respondent

...

Mr. Nitin Sejpai a/w Mrs. Pooja Sejpai for the applicant.

Mr. Prashant Jadhav, APP for the Respondent-State.

Mr. Ranveer Bayes, Police Inspector, Crime Branch, Unit-I is present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 30th JANUARY, 2019.

P.C.

1. This is an application for bail under Section 439 of Code of Criminal Procedure in connection with CR No. I-234 of 2018 registered with Naupada Police Station for the offence punishable under Sections 302, 201, 363, 364, 365, and 120B of Indian Penal Code. Applicant was arrested on 31st July, 2018. First Information Report was lodged on 29th July, 2018.

2. The case of the prosecution is that deceased Surendra Mishra had love affair with Vainshnodevi @ Rani who is daughter of accused Rajendraprasad Tiwari and they had decided to marry. However, accused Rajendraprasad had opposed the said relationship. The said accused had conspired with other accused

including applicant had made a planning to kill Surendra Mishra. On 14th July, 2018, the accused persons kidnapped the Surendra Mishra. Thereafter, they confined him in the tin shed situated in the garage of present applicant. On that day present applicant and other accused persons assaulted said Surendra Mishra by fist and kick blows and wooden log. Thereafter on 15th July, 2018 at about 3.30 a.m. the accused took Surendra Mishra to Mulund Railway Station. Thereafter, they took him in local train and threw him out of local train between Khandavali Railway Station to Wasin Railway Station.

3. Applicant had preferred an application for bail before the Sessions Court which was rejected on 22nd November, 2018. Learned counsel for the applicant submits that applicant is senior citizen aged about 68 years. There is no evidence to show that the applicant is concerned with the murder of the deceased. Applicant had no motive to kill Surendra Mishra. Only role attributed to the applicant is that he assaulted by giving fist blows to Surendra Mishra. Applicant was not present alongwith other accused when the said accused had taken the injured with them and thrown injured on the railway track. Statement of the witness Santosh Pandey was recorded on 14th August, 2018.

4. Whereas learned APP submitted that applicant was part of the conspiracy. Applicant has participated in assaulting the deceased. There was conspiracy to commit murder. Even injured was taken to railway station. He had sustained serious injuries. There is one case pending against the applicant.

5. On perusal of the documents on record. Motive is attributed to co-accused Rajendraprasad Tiwari whose daughter was having affair with the deceased. Prosecution is heavily relying on the statement of Santosh Pande who referred the fact that the applicant and other accused used to meet in the garage and has also referred to assault upon the deceased. The statement of the said witness was recorded one month after the incident. Learned APP submits that FIR itself was registered on 29th July, 2018. On perusal of the said statement, it is apparent that role attributed to the applicant is that he had assaulted the injured by fist blows. The role of assault by wooden log is attributed to the other accused. There is no cogent evidence to show that the applicant had proceeded alongwith co-accused and injured at railway station. According to prosecution case co-accused had boarded local train and thrown the injured on the railway track. Considering the nature of evidence, age of applicant, further

detention of the applicant is not necessary. Hence, I pass the following order

ORDER

- i. Criminal Bail Application is allowed;
- ii. Applicant is directed to be released on bail in connection with C.R. No. I-234 of 2018 registered with Naupada Police Station on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. Applicant shall attend to the concerned Police Station once in a month on first Saturday of every month between 11 a.m. to 1 p.m. till further order;
- iv. Applicant shall not tamper with the prosecution witnesses;
- v. Criminal Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)