

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

CRIMINAL BAIL APPLICATION NO. 2289 OF 2019

Tushar @ Ghodya Baliram Nale ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr R. B. Raghuvanshi i/b Mr. Ratnesh Dube, Advocate for the Applicant.

Mr. S. H. Yadv, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 4th February, 2020

PC :

1. This is an application for bail in C.R. No. 590 of 2018 registered with Barshi City Police Station, Dist. Solapur for offences punishable under Sections 302, 324, 323, 143, 147, 148, 149 of Indian Penal Code and Section 4(25) of Arms Act. The FIR was lodged on 28th October, 2018 by Aakash Shridhar Chavan.

2. The case of the prosecution is that on 28th October, 2018 the brother of the complainant was assaulted by the accused on account of the previous quarrel, the deceased was brutally assaulted by the accused. He was standing along with his minor daughter. The assailants were armed with weapons like sword, sickle, iron rod and wooden log had mounted assault on him. After the assault one of the accused picked up a stone lying near the place of incident thrown it

on abdomen of the deceased. In pursuant to registration of FIR, statement of witnesses were recorded. On completing investigation charge-sheet is filed.

3. Learned counsel for the applicant submitted that the applicant is in custody from the date of arrest. Further detention of the applicant is not necessary. The applicant is not named in the FIR. His name was reflected for the first time in the supplementary statement of the complainant wherein he was attributed role of assault by wooden log. It is submitted that allegations against applicant are vague. The co-accused were attributed specific overt act of assaulting by weapon. It is submitted that there are no criminal antecedents against the applicant. Considering the role attributed to the applicant, bail may be granted.

4. Learned APP submitted that although the applicant was not named in the FIR, role of assault is attributed to person named in FIR and unknown person. There are several other eye witnesses who have also referred to assault by unknown persons along with persons who were named. It is submitted that Test Identification parade was conducted on 15th November, 2018 and eye witnesses including the complainant had identified the applicant. In pursuant to that the supplementary statement were recorded in which they have

attributed role to the applicant having assault by wooden log. Learned APP submitted that Post Mortem report indicates that deceased sustained about 15 injuries. He was assaulted mercilessly.

5. I have perused document on record on account of flimsy quarrel of dashing the vehicle, on the previous occasion the deceased was brutally assaulted by group of accused persons. They were with weapons like sickle, sword, iron road and wooden log. The deceased was standing along with minor daughter. The accused assaulted him with weapon. Name of the applicant is not reflected in FIR and the statements of witnesses, however there is reference of assault by unknown person. After arrest of the applicant in the short span of time Test Identification Parade was conducted on 15th November, 2018. The applicant was identified by 4 eye witnesses to the incident. Their supplementary statements were recorded in which they have attributed role of assault by wooden log to the applicant. The deceased had sustained several injuries. All the accused have jointly assaulted the deceased. The role of the applicant cannot be bifurcated from the other accused. The assault was joint. The assault was brutal, resulting in several injuries on the person of the deceased. In these circumstances, no case for grant of bail is made out.

6. Hence, I pass the following order :

ORDER

Bail Application No. 2289 of 2019 stands rejected
and disposed of accordingly.

(PRAKASH D. NAIK, J.)