

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

CRIMINAL BAIL APPLICATION NO. 3298 OF 2019

Khalil Mussa Sayyad

...Applicant

V/s

The State of Maharashtra

...Respondent

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Mr. Sagar Kasar a/w Mr. Amol Wagh, Advocate for the Applicant.
Mr. S. H. Yadav, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 17th February, 2020

PC :

1. This is an application for bail under Section 439 of Cr.P.C. in connection with C.R. No. I-172 of 2018 registered with Manmad City Police Station, Taluka Nandgaon, Dist. Nashik, for offences punishable under Sections 302, 120(B), 307, 324, 323, 452, 143, 147, 148, 149, 504, 506 & 427 r/w Section 34 of Indian Penal Code. The applicant was arrested on 25th September, 2018.

2. The prosecution case is that the deceased Sameer @ Papa Noor Shaikh was a Tea vendor at Manmad Railway Station. There was enmity between the nephew of the deceased and Ilias Sayyed, Irfan Sayyed, Imran Sayyed, and Ismail Sayyed over Tea vending business at Manmad Railway Station. On 20th September, 2018 at about 11.35

p.m. altercation took place between the parties. On 25th September, 2018 at about 10.00 p.m., Irfan, Imran, Wasim Bambaiwala, Jamir Sayyed entered into the house of the complainant and abused her. They dragged her husband out of the house. Irfan Sayyed, Imran Sayyed, Wasim Bambaiwala, Raju Sayyed, Ajju Sayyed, Samir Sayyed, Jamir Sayyed, Khalil Sayyed, Amajad Khan Karim Khan, Iqbal Tirewala, Jafer Sayyed, Salim Sayyad, Imran Khan Karim Khan, Soyeb Habib Shaikh, Bhaiya Salim Sayyed, Nadim Seth & 15 to 20 other persons who were armed with sticks, wooden logs, swords, chopper, iron pipe, and rod. All of them assaulted the complainants husband by weapons on his head and legs. Complainants nephew Arbaj Shaikh intervened, however he was assaulted by wooden logs and iron rod. The accused also caused damage to the property. They assaulted the people from the area caused damage to the vehicles. They created terror in the area. Thereafter they ran away from the place of incident. Hence, the FIR was lodged on 26th September, 2018.

3. The applicant was arrested and investigation proceeded. On completing investigation charge-sheet is filed.

4. Learned counsel for the applicant submitted that the applicant has been falsely implicated in this case. On account of enmity his

name has been disclosed in this case. The applicant relied upon the C.C.T.V. footage indicate that he was not present at the scene of offence. According to applicant at the relevant time he was at Sangamner.. There is one antecedents against the applicant.

5. Learned APP submitted that the applicant has been named in the FIR. Four other witnesses have also named him. There are antecedent against him. Defense of alibi will have to be established at the time of trial. The witnesses have specifically named the applicant as participant in the crime.

6. I have perused the documents on record. The first informant has narrated the incident. Several persons armed with deadly weapons such as sickle, chopper, iron rod, wooden log etc. had assaulted deceased. They had also caused damage to the property. They created terror in the area. The complainant has named the applicant. Role has been assigned to the applicant. Four other witnesses have also named the applicant as participant in the crime. In the light of the statement of the complainant Aarifa Shaikh, Suresh Mali, Vinod Patil & Deepak Sanap involving applicant, it cannot be said that there is no evidence against applicant. He has antecedent. Considering the nature of evidence, no case for grant of bail is made out.

7. Hence, I pass the following order :

ORDER

- i) Bail Application No. 3298 of 2019 stands rejected and disposed of accordingly.

(PRAKASH D. NAIK, J.)