

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

CRIMINAL BAIL APPLICATION NO. 3385 OF 2019

Suraj Babu Ray

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Indu P. Mishra, Advocate for the Applicant.
Ms. Rutuja Aambekar, APP for Respondent-State.
Mr. Dagade, P.S.I., Pydhonie Police Station.

...

CORAM : SANDEEP. K. SHINDE, J.
DATE : 14th JANUARY, 2020.

P.C.

Heard.

1. It is an application under Section 439 of Code of Criminal Procedure, 1973.

2. Prima facie, evidence on record shows, deceased was assaulted by the applicant and the co-accused by fist blows. The applicant came to be

arrested soon after the incident on 24.02.2019 for the alleged offence punishable under Section 302 of the Indian Penal Code, 1860 ("IPC" for short). The incident was witnessed by atleast six persons who are cited as eye witnesses.

3. Learned counsel for the applicant submits that applicant and the co-accused had no intention to cause his death. He has taken me through the postmortem report which contained that deceased had not sustained any injuries which would otherwise have caused his death. The submission is, evidence on record does not indicate or even suggest that applicant had intention to kill the deceased and infact it appears that after the deceased fell down, the applicant and the co-accused tried to regain his conscious by sprinkling water on his face.

4. Be that as it may, even if it is accepted that applicant had no intention to kill the deceased; the question, as to whether he had an intention and or not,

could be sustained and answered only after the prosecution leads the evidence.

5. In view of the nature of accusation and the evidence on record, the application is rejected.

6. The applicant may renew his request for his enlargement on bail, if the trial does not commence on or before 30th June, 2020. Application is disposed off.

7. It is made clear that the observations made hereinabove shall be construed as expression of opinion only for the purpose of refusal to grant bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP. K. SHINDE, J.)_