

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

BAIL APPLICATION NO.3494 OF 2019

Suraj Abhiman Nisargan ... Applicant
Vs
The State of Maharashtra ... Respondents
...

Mr. Pawan Mali for the Applicant.
Mr. S.R.Agarkar, APP for the Respondent-State.

CORAM : SANDEEP K. SHINDE J.
DATE : 30th JANUARY, 2020

P.C. :

Heard.

2 It has been submitted that the alleged offence was without pre-mediation whereby, quarrel had ensued between the accused no.1 and the deceased in the course of which, accused no.1 phoned the applicant. On reaching the place, applicant attempted to intervene in the quarrel but since the deceased had already started assaulting accused no.1, applicant in the heat of the moment, hit the deceased with stone lying over there. Post-mortem report

shows, probable cause of death as head injury and the autopsy surgeon also noted three grievous injuries on the head of the deceased.

3 Be that as it may, evidence on record suggests, applicant had gone to the place of incident when he received phone call from the accused no.1. Evidence further suggests, he was not carrying any weapon with him. Prima-facie, therefore, it is to be held that he had no intention to commit the murder of the deceased. Nevertheless, evidence suggests that in the heat of passion and without any pre-mediation, applicant picked up stone and hit it on the head of the deceased, which caused his death.

4 While the Accused No.1 had been released by this Court vide order dated 6th September, 2018, it may be noted that applicant is in custody for two years and four months. There are no criminal antecedents against him. It is informed that till date, charge has not been framed. It appears, the trial is not likely to commence or conclude in

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near future. In view of the above considerations, applicant's presence can be secured by imposing suitable conditions.

5 In view of the facts aforesaid, application is allowed. Hence, the following order:

ORDER

(i) The applicant be enlarged on bail in Crime No.592 of 2017 registered with Nigdi police station, on executing PR Bond in the sum of Rs. 50,000/- with one or two sureties in the like amount;

(ii) The applicant shall report to the Nigdi Police Station on first Monday of every month, until further orders;

(iii) The applicant shall furnish his permanent as well as temporary address, if any, and his contact details to the concerned Investigating Officer;

(iv) The applicant shall not change his residential address without prior intimation to the concerned Investigating Officer.

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

6 The application is accordingly disposed of.

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

(SANDEEP K. SHINDE, J.)