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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1187 OF 2021**

RAGHUNANDAN RADHESHAM PATAVA APPLICANT

V/s.

THE STATE OF MAHARASHTRA RESPONDENT

Mr. Sudeep Pasbola i/b Mr. Ayush Pasbola for the applicant
Ms. A. A. Takalkar APP for the State
Mr. Salve, PSI, Mankhurd Police Station

CORAM : NITIN W. SAMBRE, J.

DATE: DECEMBER 7, 2021.

P.C.:

1] Applicant is seeking regular bail in C.R. No. 239/2020 registered with Mankhurd Police Station, Mumbai for offence punishable under Sections 302, 142, 143, 144, 146, 147, 148, 149, 201, 188, 269 and 114 of the Indian Penal Code, under Section 51(B) of National Disaster Management Act, 2005 and Rule 11 of Covid 19, with Section 2, 3, 4 of Epidemic Act. Applicant, after arrest on 14/06/2020, came to be charge-sheetd.

2] Submissions of Mr. Pasbola, learned counsel for the applicant

are, but for physical presence, no specific or overt act of active participation in the commission of crime is attributed to the applicant or can be noticed in CCTV footage. According to him, applicant, applicant had no intention to commit the offence as has been alleged, but for his act of advising co-accused to shift the victim to the hospital.

3] Learned APP submits that CCTV footage infers presence of the accused and that being so, provisions of Section 149 of Indian Penal Code are invoked. It is claimed that offence is punishable with life or death and as such, application be rejected.

4] Considered submissions.

5] Alongwith applicant, there are other accused persons, one of them is Anand @ Nandu Patava is shown to be co-accused. Evidence available on record appears to have been considered by the Sessions Court for rejecting bail application of the applicant under the presumption that applicant is Anand @ Nandu Patava.

6] With the assistance of the counsel for the applicant so also learned APP, I have perused statement of witnesses and also details about CCTV footage. Physical presence of the applicant can be inferred from the spot of the incident, however, none of the eye witnesses or even in CCTV footage, applicant is seen to be actively participating in the commission of crime. That being so, the very intention of mens rea cannot be inferred against the applicant. That being so, applicant deserves grant of bail.

(i) Applicant be released on bail in C.R. No. 239/2020 registered with Mankhurd Police Station, Mumbai for offence punishable under Sections 302, 142, 143, 144, 146, 147, 148, 149, 201, 188, 269 and 114 of the Indian Penal Code, under Section 51(B) of National Disaster Management Act, 2005 and Rule 11 of Covid 19, with Section 2, 3, 4 of Epidemic Act upon furnishing P.R. bond in the sum of Rs. 25,000/- with one or two local sureties in the like amount.

(ii) Applicant shall neither influence witnesses in any manner nor tamper with evidence.

7] Application stands disposed of.

[NITIN W. SAMBRE, J.]