

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

CRIMINAL BAIL APPLICATION NO. 1516 OF 2020

Hasim Samsuddin Khan	... Applicant
Versus	
The State of Maharashtra	... Respondent

.....

Mr. R. V. Gupta, Advocate for the Applicant.

Ms. Anamika Malhotra, APP for the Respondent – State.

Mr. Thombre, A. P. I., Mumbai Central Railway Police Station,
Present.

.....

CORAM : PRAKASH D. NAIK, J.

DATE : 22nd FEBRUARY, 2021

PER COURT:

1. This is an application for bail in C.R. No. 2365 of 2018 registered with Mumbai Central Railway Police Station on 20th November, 2018. Initially the offence was registered under Section 307 r/w Section 34 of Indian Penal Code and subsequently it was altered to 302 of IPC.

2. The complaint was lodged on 20th November, 2018 alleging that one person was found in the injured condition at the Railway Station. He was taken for treatment. Statement of eye witness Minakshi Waghmare was recorded on 27th November, 2018. According to her, the applicant, co-accused Imran, another accused and complainant were together. They were travelling by train. The

RajeP.
Aher
Digitally
signed by
RajeP. Aher
Date:
2021.02.24
14:26:16
+0530

deceased questioned them as to why they were shouting. There was scuffle between applicant, Imran and the deceased. After sometime the witness Minakshi was standing near the door of train. Her cell phone fell down. The accused felt that deceased was trying to snatch her cell phone. There was scuffle, at that time one person with yellow shirt entered into the train. The co-accused Imran had allegedly pushed the victim, thereafter he (victim) fell down in the track and sustained injury. He was taken to hospital. He died after a period of 10 months. Initially the applicant was granted bail by the Sessions Court, subsequently, on invoking Section 302 of IPC, bail was cancelled and since then he is in custody.

3. On perusal of the FIR it is apparent that the alleged role of pushing the victim was attributed to the co-accused. Question still remains whether offence under Section 302 is made out in this case. The person who had allegedly boarded in the train with yellow shirt could not traced. The applicant is in custody for a period of about two years. There are no criminal antecedents against the applicant. Hence, I pass the following order:

ORDER

- (i) Criminal Bail Application No. 1516 of 2020 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. 2365 of 2018 registered with

Mumbai Central Railway Police Station, on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(iii) The applicant shall report concerned Police Station once in three month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;

(iv) The applicant is permitted provisional cash security in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety.

(v) Application stands disposed of accordingly.

4. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)