

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3212 OF 2021**

Taufeeque Akhtar Abdul Malik	...	Applicant
Versus		
State of Maharashtra	...	Respondent

Mr. M. N. Sandhyanshiv, for the Applicant.

Ms. P. N. Dabholkar, APP, for the State-Respondent.

CORAM : V. G. BISHT, J.

**RESERVED ON : 16th November, 2021.
RONOUNCED ON : 23rd November, 2021.**

PC:-

. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in C.R. No. 26 of 2021 registered with Azadnagar Police Station, District-Nashik for the offences punishable under Sections 302, 307, 323, 427, 452, 504, 147, 148, 149 of the Indian Penal Code, Section 4/25 of the Arms Act and Section 37(1)(3)/135 of the Maharashtra Police Act.

2 It is the case of prosecution that applicant along with other accused suspected that it was informant, namely, Akeel Ahmed Nisar

Ahmed (since deceased), who had broken the wire of electricity of the neighbour Kashmiri and therefore, on 02/03/2021 at about 8.45 p.m. to 9.00 p.m., the sons of Malik Sheth, namely, Mehfooj Akhtar Abdul Malik, Taufeeque Akhtar Abdul Malik (applicant), Zishan Akhtar Abdul Malik, Masood Akhtar Abdul Malik and his friend Vakil Sheth by forming an unlawful assembly and after entering into the house of informant dragged the deceased out of the house. It is further alleged that accused Vakil Sheth by means of iron pipe and accused Masood by means of a knife assaulted on the abdomen and head of the deceased while applicant and accused Mehfooj and Zishan assaulted the deceased by means of fist and kick blows. The informant accordingly lodged the report.

3 Mr.Sandhyanshiv, learned Counsel for the applicant, submits that the role attributed to the applicant is that he had assaulted the deceased by means of fist and kick blows. According to learned Counsel, the main accused, namely, Vakil Ahmed Jalil Ahmed has been released on bail by the trial Court. The statements of witnesses also show that the applicant had used fist and kick blows. Since lesser role is attributed to the applicant, he is entitled to be released on bail, argued learned Counsel.

4 Ms. Dabholkar, learned APP, on the other hand, opposed the submissions by contending that the applicant along with other accused by forming an unlawful assembly assaulted the deceased. Having regard to the nature of offence, the application does not deserve to be allowed, argued learned APP.

5 Perused investigation papers. There is no dispute to the role of applicant that he had used fist and kick blows while assaulting the deceased. I have also gone through the Postmortem Report (page 233 of the record). The cause of death given by the Autopsy Surgeon is, “Cardio respiratory arrest due to massive blood loss due to penetrating injury to left carotid artery.” Needless to say, this injury was caused by sharp weapon which admittedly the applicant had not used in the alleged offence.

6 In view of above and the fact that no criminal antecedents are brought on record, in my considered opinion, the applicant deserves to be admitted on bail. Hence, the following order.

ORDER

(i) Applicant- Taufeeque Akhtar Abdul Malik shall be released on bail in C.R.NO. 26 of 2021 registered with Azad Nagar Police Station,

District- Nashik on his executing P .R. bond in the sum of Rs.20,000/- with one or more sureties in like amount.

(ii) The applicant shall not tamper with the prosecution evidence and shall attend the trial regularly.

(iii) The observations made herein-above are prima-facie in its nature for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.

(iv) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(v) The application is allowed in the aforesaid terms.

(V. G. BISHT, J.)

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