

Anand

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

BAIL APPLICATION NO. 2208 OF 2019

**Nisha S.
Chitnis**

Vikas alias Pintu Baban Tengale

.Applicant

Vs.

The State of Maharashtra

.Respondent

Digitally signed by
Nisha S. Chitnis

Date: 2021.01.13
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Mr. Aniket U. Nikam i/b. Mr. Vivek Arote, Advocate, for the Applicant
Mr. A. R. Patil, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 12.01.2021

P. C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 130 of 2019 registered with the Yavat Police Station, Taluka – Daund, District - Pune, for the alleged offences punishable under Sections 302, 342, 506 r/w 34 of the Indian Penal Code.

3. Learned counsel for the Applicant submits that the allegations as against the Applicant are baseless and false. He submits that except for the Complainant, none of the eye witnesses, who were

allegedly present at the spot have named the Applicant, as being present at the spot or of assaulting the deceased – Tushar Mane. He submits that the deceased – Tushar Mane in his alleged dying declaration made to Chandrakant Kunjir, on the way to the hospital, has not named the Applicant. He submits that the Applicant has no antecedents and that investigation is complete and charge-sheet is filed.

4. Learned APP opposed the Application.

5. Perused the papers. According to the Complainant – Nikita Mane (wife of deceased – Tushar Mane), the incident took place on 14.02.2019 at around 6.00 p. m.. It is alleged by the prosecution that as deceased – Tushar Mane had assaulted co-accused – Rohidas Sargar's mother, the accused assaulted Tushar Mane. According to the prosecution, initially, co-accused – Santosh Tengale, Dattu Sargar and Rohidas Sargar assaulted her husband – Tushar Mane and that when the Applicant came later, all of them, again assaulted Tushar by fist and kick blows. A perusal of the statement of Chandrakant Kunjir, who took the deceased to the hospital shows that deceased – Tushar Mane was in great pain as he had sustained a bleeding injury and that he (Tushar) was continuously taking the names of Santosh Tengale and Rohidas Sargar.

Similarly, a perusal of the statements of the eye witnesses to the incident i. e. the statements of Bhausahab Kshirsagar and Vijay Devkar does not reveal the presence of the Applicant at the spot. The said witnesses have named Rohidas Sargar and Dattu Sargar, as being present at the spot. There is no recovery of any clothes at the instance of the Applicant. The statement of the learned counsel for the Applicant that the Applicant has no antecedents is accepted. If it is found that the statement is incorrect, the prosecution is at liberty to bring the same to the notice of this Court.

6. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

O R D E R

- (i) The Applicant be enlarged on bail, on executing P. R. Bond in the sum of **Rs. 30,000/-** with one or two sureties in the like amount;
- (ii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the

concerned Police Station;

(iv) The Applicant to co-operate with the conduct of the trial and attend all the dates before the trial Court;

(v) The Applicant shall file an undertaking with regard to clauses (ii) to (iv) in the trial Court, within two weeks of his release;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

All concerned to act on the authenticated copy of this order digitally signed by Personal Assistant / Private Secretary.

(REVATI MOHITE DERE, J.)