

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

BAIL APPLICATION NO. 1959 OF 2021

Mangesh Sakkarpani Kondar
v/s.
The Senior Inspector of Police
and anr.

.... Applicant

.... Respondents

Mr. Taraq Sayed i/b. Mr. Swapnil Wagh for the Applicant.
Mr. S.H. Yadav, APP for the State.
Mr. P.N. Salunkhe, PI, Dongri Police Station, Mumbai.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 25th MARCH, 2022.

P. C. :-

. This is an Application under section 439 of Cr.PC. filed by the aforesaid Applicant who is facing trial in Sessions Case No.182/2021 pending on the file of Sessions Court, Mumbai for offences punishable under sections 302, 323, 324, 326 r/w. 34 of the Indian Penal Code.

2. Heard Mr.Taraq Sayed, learned counsel for the Applicant. He states that the CCTV footage recovered from the spot of the incident, does not prima facie indicate that the Applicant was involved in inflicting fatal injuries on the deceased. He further submits that perusal of the post mortem report reveals that the Doctor has not given final

opinion as regards the death of the deceased and the opinion as regards the cause of death is still awaited. He submits that the Applicant has no criminal antecedents and considering the nature of the accusations against the Applicant and material in support thereof, the Applicant be enlarged on bail.

3. Learned APP submits that the deceased had sustained as many as 22 injuries. He has stated that the statement of the witnesses as well as CCTV footage prima facie indicate that the Applicant was involved in assaulting the deceased - Majid Sajid Ali. He further submits that considering the gravity of the offence, the Applicant is not entitled for bail.

4. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. The records reveal that on 25/10/2020, at about 10:30 a.m., one Ms. Dwarka Potwale, PSI, who was on patrolling duty, had seen one person lying in an injured condition on a footpath of SVP road on Wadi Bunder bridge. She reported the incident to the Police Inspector and later, the said injured person was shifted to the hospital and he was declared dead. Smt. Jaitun Sajid Ali, the mother of the deceased

identified the deceased as her son Majid Sajid Ali. The CCTV footage retrieved from the spot of the incident revealed that the deceased was assaulted by the two persons for committing theft from one container used as temporary residence for construction workers. The Applicant and the co-accused were identified as the assailants and accordingly, C.R.No.176/2020 came to be registered at Dongri Police Station against the Applicant and the other co-accused for offence punishable under sections 320 r/w. 34 of the Indian Penal Code.

6. The statements of the eye witnesses indicate that the deceased was caught committing theft and he was assaulted by the Applicant and the co-accused. One of the eye witnesses – Abdul Hamid Kureshi had also slapped him. It is to be noted that the eye witnesses had made general omnibus allegations against the Applicant and the co-accused. Be that as it may, the CCTV footage retrieved from the spot of the incident reveals that the co-accused was involved in assaulting the Applicant with wooden danda and the Applicant had only slapped him and tied him with a rope. The CCTV footage does not prima facie show the involvement of the Applicant in assaulting the deceased with a stick and/or inflicting fatal injuries.

7. Considering the nature of the accusations against the Applicant and the material in support thereof, in my considered view, the Applicant is entitled for bail.

8. It is stated that the Applicant is a permanent resident of Palghar. There are no chances of the Applicant absconding and/or thwarting the course of justice. Furthermore, it is seen that the charge sheet has been filed but charge is not yet framed. Hence, in my considered view, it is not necessary to detain the Applicant in custody pending trial which, considering the large pendency of cases, is not likely to commence in near future.

9. Under the circumstances, the Bail Application is allowed on following terms and conditions :-

(i) The Applicant who is facing trial in Sessions Case No.182/2021 pending on the file of Sessions Court, Mumbai, is ordered to be released on cash bail in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) for a period of six weeks.

(ii) The Applicant, within the said period of six weeks, furnish

P.R. bonds in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with one or two sureties in the like amount.

- (iii) The Applicant shall report to Dongri Police Station, Mumbai once in a month on every 1st Saturday between 11.00 a.m. to 01.00 p.m. until further orders;
- (iv) The Applicant shall not interfere with the witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case, in any manner.
- (v) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
- (vi) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

10. Bail Application stands disposed of in above terms.

**PREETI H
JAYANI**

Digitally signed by
PREETI H JAYANI
Date: 2022.03.28
18:39:49 +0530

(SMT. ANUJA PRABHUDESSAI, J.)