

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

BAIL APPLICATION NO.1558 OF 2020

Mariyraj @ Mariya Harijan of Mumbai	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Samir Vaidya with Mr. Hare Krishna Mishra for the Applicant.
Ms S.S. Kaushik, APP for Respondent-State.
Mr. Rasam, PSI, Malad Police Station, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 25th APRIL, 2022.

P.C.:-

1. This is an application under Section 439 of Cr.P.C. filed by the Applicant, who is facing trial in Sessions Case No.371 of 2016 pending on the file of the learned Additional Sessions Judge, Dindoshi, Goregaon, Mumbai, arising out of C.R. No.288 of 2016 registered with Malad Police Station, Mumbai for offences punishable under Sections 120-B, 143, 144, 145, 147, 148, 149, 201 r/w. 34 of the IPC.

2. Mr. Samir Vaidya, learned counsel for the Applicant states that the Court has granted bail to co-accused Kadresh @ Kutty Periyar on 15/02/2022. Hence, the Applicant is also entitled for bail on the ground

of parity. He further states that there is no material on record to prima facie prove the involvement of the Applicant in the aforesaid crime.

3. Per contra, learned APP states that statement of the eye witness not only proves presence of the Applicant at the scene of offence and that the offence is of serious nature, hence, 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 material on record prima facie indicate that on 16/06/2016 the Complainant was told by his friend that father of the Complainant was being assaulted by some unknown persons and was taken to the hospital. The deceased expired and the statement of Dinesh, son of the deceased was recorded, pursuant to which Crime No.288 of 2016 came to be registered by Malad Police Station.

6. The statement of the Complainant-Dinesh prima facie reveals that his father was a secretary of Valnai Shivgami Temple and committee member of Dharavi Nadar Samaj. He had raised objection over

construction of a library near the said temple. On 16/06/2016 he was informed that his father was being assaulted and was taken to the hospital. When he went to the hospital he found that his father had sustained several chop and deep stab injuries on his head, nose area, chest and back. He has stated that there were about 10 injuries on his chest which were inflicted by a sharp weapon. He therefore lodged the FIR against unknown persons for committing murder of his father.

7. The statement of Mitesh Anant Surve, prima facie reveals that on 16/06/2016 at about 22.15 he had seen about four persons between the age group of 25 years assaulting the deceased. He has stated that the said persons were armed with weapons. The Applicant was one of the persons involved in the incident of assault. The Statement of Murargan Nadar also prima facie indicates that on the relevant date and time he had seen the Applicant at the place of the incident with Koyta in his hand.

8. There is thus, prima facie material to show the involvement of the Applicant in inflicting injuries on Jayraman Nadar. The Applicant is not entitled for bail on the ground of parity as the Co-accused Kardesh @ Kutty Mutthaya Periyar, was released on bail since he was not assigned role of assault on the deceased and he was alleged as conspirator in the

crime. As noted above, the material on record indicates that the Applicant was involved in causing death of the deceased, who was murdered in a most brutal manner.

9. The records also indicate that the Applicant is also involved in Crime No.311 of 2015 for offences punishable under Sections 324, 504, 506 and C.R. No.114 of 2007 for offences punishable under Sections 307, 326 r/w. 34 of the IPC. The criminal antecedents also do not justify bail. Hence, application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)