

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4129 OF 2021**

Akash Vijay Pavar	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

Mr. Ganesh Bhujbal for the Applicant.

Mr. H.J. Dehia, A.P.P. for the State/Respondent.

**CORAM: BHARATI DANGRE, J.
DATED : 10th OCTOBER, 2022**

P.C:-

1. At the outset the counsel is permitted to correct prayer clause, where inadvertendly the year is wrongly mentioned. Permission granted, carry out the amendment forthwith.
2. The counsel for the applicant place reliance upon the order dated 19/04/2022 passed in case of two co-accused Nazim Nazakat Ansari and Sasa @ Sagar Dashrath Waghmode, who came to be released on bail, on considering their role, which has surfaced on record in the charge-sheet, and also on the ground that investigation being completed, charge-sheet is filed. The learned APP do not dispute that the applicant is entitled to invoke parity and deserve a similar treatment.

3. When the material compiled in the charge-sheet is perused, where the offences punishable under sections 302, 143, 144, 147, 148, 149, of IPC along with section 4 (25) of the Arms Act and section 37(1)(3) of the Maharashtra Police Act has been invoked, it can be seen that there is inconsistency in the version of the prosecution witnesses.

The informant has recorded two statements, the first statement resulted in registration of complaint, where the present applicant is not named. In his supplementary statement recorded on the very same day i.e. on 6/10/2019, he take the name of the applicant along with Sagar Waghmode and Nazim Ansari and several others and allege that they picked up the weapons, which were concealed and started assaulting him and his friends. He clarify by stating that when he lodged the report he had not taken the names of all the assailants, as he was in frightened state of mind and he had only mentioned the names which he could immediately recollect. He however clarified that there were 10 to 12 persons, who were present and they were all armed with weapons like Scythe, Iron Rod, Wooden sticks and they assaulted him and his friends and since one of the friend Amit fell down, he was brutally assaulted, and he succumbed to the

injuries.

4. Three eye-witnesses to the incident have named the present applicant but the reference is in a collective manner, to the effect that 8 to 9 unknown persons have assaulted. No specific role is assigned to the present applicant by either of the witnesses. There is no recovery at the instance of the applicant and on this aspect he stand on the same footing as co-accused Nazim Ansari and Sasa@ Sagar Dashrath Waghmode, who have been released on bail by recording as under:

“8. The investigation is completed long back and charge-sheet has been filed. There appears to be rival terms in between informant and named four assailants. Though, it is hard to prove the motive, however, prima facie there is no material to indicate any motive or enmity in between deceased and both the applicants. Certainly, trial will take its own time for disposal according to law. Having regard to these facts, the applicants can be enlarged on bail by imposing certain conditions.”

5. I see no reason why the above observation cannot be made applicable to the present Applicant, who deserve to be released on Bail.

: ORDER :

(a) Application is allowed.

- (b) Applicant -Akash Vijay Pavar shall be released on bail in connection with C.R.No. 354 of 2019 registered with Chinchwad Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer, and shall not tamper with evidence.
- (d) The applicant shall mark his attendance to the Investigating Officer on First Monday of trimester, between 3:00 p.m to 5:00 p.m.
- (e) On being released on bail, the applicant shall give his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(SMT. BHARATI DANGRE, J.)