

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

**BAIL APPLICATION NO.930 OF 2022
WITH
INTERIM APPLICATION NO.410 OF 2023
IN
BAIL APPLICATION NO.930 OF 2022**

Pritesh Rajesh Tribhuvan ...Applicant

Versus

The State of Maharashtra ...Respondent

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Advocate Sherali S. Khan for the Applicant.

Mr. Ram Pethe, APP for Respondent -State.

Mr. Mahesh B. Gupta i/b. Mr. Pradyumna Waghmare for the Intervenor.

Mr. Prakash Sonawane, PI, Pant Nagar Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 14th MARCH, 2023.

P. C. :-

1. This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Sessions Case No.830 of 2021 pending on the file of learned Additional Sessions Judge, 36th Court, Mumbai. Said case arises from C.R. No.280 of 2021 registered with Pant Nagar Police Station, Mumbai, for the offences punishable under Sections 109, 114, 120B, 141,143, 145,147, 148 and 302 r/w. 149 of the IPC and Sections 37(1) and 135 of the Maharashtra Police Act.

2. Heard learned Advocate Sherali Khan for the Applicant, learned APP Pethe for the Respondent -State and learned Advocate Mahesh Gupta for the Intervenor. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Ram Karande, father of the deceased Vishal. A perusal of the FIR reveals that on 01/05/2021 at about 10 .00 p.m. the Complainant was informed that co-accused Ajay had quarreled with the deceased Vishal. On 02/05/2021 at 00.15 hours someone came to the residence to call Vishal. The Complainant has stated that Vishal went alongwith the said person. At about 1.30 a.m. some children from the locality informed the Complainant that Vishal was being assaulted by some boys. The Complainant, his wife and others went to the place of the incident and they saw that the Applicant and the co-accused assaulting their son Vishal. The Complainant claims that the Applicant and other co-accused assaulted Vishal by tiles and paver blocks and Ajay stabbed Vishal by means of a sharp weapon. Vishal was taken to the hospital and he expired on the same night.

4. The FIR prima facie reveals that the Applicant was not only present at the place of the incident but he was involved in assaulting the deceased. The statements of Lata and Harshali, mother and sister of the deceased also prima facie reveal that the Applicant herein had caught hold of the deceased and the others were saying that he should not be left and he should be killed. Both these witnesses stated that despite their request to leave the deceased and not to assault, the Applicant and the co-accused continued assaulting him by means of sharp weapons.

5. The statements of the Complainants and the other witnesses prima facie indicate that the Applicant was one of the members of the unlawful assembly, which was formed with the common object of causing death of Vishal. In furtherance of the common object they gathered at the place of the incident armed with weapons and called the deceased to the place of the incident and caused his death. The Applicant was not only involved in assaulting the deceased but had caught hold of him while others were stating that the deceased should be killed. The Complainant in his supplementary statement has stated that the Applicant and others were

the members of Balmitra Mandal and extracting money from the villagers. He has stated that the deceased had objected to their activities and as such one of the co-accused had threatened the deceased.

6. The allegations against the Applicant are serious in nature. It is also seen that Bail Application No.1323 of 2022 filed by the co-accused-Kiran Nirbhavne was withdrawn when the Court (Coram : Bharti Dangre, J.) had expressed disinclination to entertain the application. Considering the nature of accusations and the material on record, in my considered view this would not be a fit case for grant of bail. Hence, the application is dismissed.

7. Interim application (s), if any, stand (s) disposed of in view of dismissal of the Bail Application.

(SMT. ANUJA PRABHUDESSAI, J.)

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