

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

BAIL APPLICATION NO.3869 OF 2021

Manohar Laxman Thakur

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Hitesh Jain with Mr. Chauhan for the Applicant.

Mr. S.H. Yadav, APP for the Respondent -State.

Ms Usha Babar, PI, Wadala Police Station, present.

MEGHA
SHREEDHAR
PARAB

Digitally signed by
MEGHA SHREEDHAR
PARAB
Date: 2023.07.25
11:13:28 +0530

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 19th JULY, 2023.

P. C. :-

1. The Applicant, who is facing trial in Sessions Case No.682/PW/2021 pending on the file of Sessions Court, Greater Bombay, seeks enlargement on bail under Section 439 of the Cr.P.C. Said case arises from C.R. No.17 of 2021 registered with Dongri Police Station, Mumbai, for the offences punishable under Sections 143, 144, 147 and 302 r/w 149 of the IPC.

2. Heard Mr. Jain, learned counsel for the Applicant and Mr. S.H. Yadav, learned APP for the Respondent -State. 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 Ganesh Kamble, Police Constable. The facts narrated in the FIR prima facie reveal that on 20/01/2021 during evening hours he received an information that about 4 to 5 persons were assaulting one person and he was lying on the spot in an unconscious state. When he proceeded to the spot, he saw one person lying on the spot. Shagufta Khatib, who was present at the place of the incident identified the deceased as Vishal Paril. She informed him that there was an altercation and scuffle between the Applicant and the deceased Vishal and that four other persons stated to be the friends of the Applicant assaulted said Vishal by wooden bamboo and plastic pipe.

4. The statements of Shagufta Shahbaz Khatib and Qureshi prima facie reveal that on 20/01/2021 at about 5.00 p.m. they had heard the Applicant abusing the deceased Vishal. There was an altercation between them over payment of money. They have stated that the deceased slapped the Applicant and thereafter the four friends of the Applicant abused the deceased Vishal and assaulted him with wooden bamboo and plastic pipe.

5. The post mortem report reveals that the deceased had contusions on left side of face, contused abrasions on lower lip, upper lip, right thigh and anterior aspect of left leg, abrasion present on left angle of mandible and multiple nail scratch abrasions. The post mortem report further indicates that there was underscalp hemorrhage present on left frontal region. There was no fracture. The Doctor did not give cause of death and reserved the opinion. The learned APP states that the Investigating Officer has not taken steps to procure the final opinion. As a consequence thereof, there is no prima facie material on record as regards the cause of death of the deceased.

6. Be that as it may, the records reveal that there was an altercation and fight between the Applicant and the deceased. The Applicant was not armed with any weapon and he had not inflicted any injury on the deceased by means of wooden bamboo or plastic pipe. Considering the role attributed to the Applicant, in my considered view this is a fit case to exercise the discretion under Section 439 of the Cr.PC.

7. Hence, the application is allowed on the following terms and conditions:-

- (i) The Applicant, who is facing trial in Sessions Case No.682/PW/2021 pending on the file of Sessions Court, Greater Bombay, is ordered to be released on bail on executing PR bonds in the sum of Rs.40,000/- with one or two sureties to the like amount.
- (ii) The Applicant shall report to Dongri Police Station, once in three months on the first Monday of the month between 11.00 a.m. to 2.00 p.m.
- (iii) The Applicant shall co-operate with the conduct of the trial and attend the trial on all dates, unless exempted.
- (iv) The Applicant shall not leave the State of Maharashtra without prior permission of the court.
- (v) The Applicant shall not interfere with the witnesses or tamper with the evidence in any manner.
- (vi) The Applicant shall keep the Trial Court/ Investigating Officer informed of his current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

8. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)