

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

CRIMINAL BAIL APPLICATION NO. 3482 OF 2022

Nilesh Alias Sonu Dadu Ahire

...Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

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Mr.S.T. Pandey a/w Mr.Nagesh Avhad, Ms.Anima Mishra,
Ms.Kajal Upadhaya i/b SBG Law, for the Applicant.
Mr.Y.Y. Dabke, APP for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 27th SEPTEMBER 2023

P.C:-

. By this Application, Applicant is seeking bail in
Crime No.18 of 2022 registered with Upnagar Police Station,
Nashik, for the offence punishable under Sections 302, 326, 323
read with Section 34 of the Indian Penal Code ('IPC' for short),
Section 129/194(D), 128(1)/194(C), 3(1)/191 of the
Maharashtra Motor Vehicles Act, 1989 ('MV' Act), Section
50/177 of the Central Motor Vehicles Act 1989 ('CMV Act).

2. It is prosecution's case that, on 22nd January 2022 at around 10.00 p.m. first informant's son Sharad was assaulted by Applicant along with other two co-accused with fist, blows and piece of cement block. Due to said assault deceased died.

3. It is contention of the learned counsel for the Applicant that, Applicant has been falsely implicated in this case. Deceased was habitual drinker. The injuries caused to the deceased might have been caused by fall on the ground. Postmortem report shows that, injury caused deceased due to hard and blunt object. The two Supplementary Statements are given by the first informant there is improvement in the said Supplementary Statement. There is no material produced on record against the Applicant. Applicant is behind bar more than one year and nine months. Hence, requested to allow the Application.

4. It is contention of the learned APP that, the incident was witnessed by the eye witnesses. In their statements they have stated that, the Applicant had assaulted the deceased along with other two co-accused. The deceased had oral dying declaration

before first informant that, he was assaulted by the Applicant and other two co-accused. There is *prima facie* case against the Applicant, hence, requested to reject the Application.

5. I have heard both learned counsel. Perused FIR and charge-sheet.

6. The FIR was filed immediately after the incident. In the said FIR name of the Applicant was mentioned and role attributed to the Applicant is that, he assaulted the deceased with fist, blows and cement block. The eye witness Sarla Sonawane has stated that, she had witnessed the said incident. Witness Kartik has stated that, his father was assaulted by three persons and the Applicant is one of them. This witness identified the Applicant in identification parade.

7. In FIR it is specifically mentioned that, Applicant assaulted the deceased along with two co-accused. It appears that, Applicant is the main culprit. Though there is improvement in the Supplementary Statement of the Applicant, but in first information report, it is mentioned that, the Applicant had assaulted the deceased. As well as first informant has stated that,

deceased while going to hospital had stated that, he was assaulted by the Applicant and other co-accused. There is strong *prima facie* case against the Applicant.

8. In view of above, I pass following order.

ORDER

- (i) Application is rejected.

(SHIVKUMAR DIGE, J.)