

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

**INTERIM APPLICATION NO.3242 OF 2023
IN
CRIMINAL APPEAL NO.987 OF 2023**

Kiran Dattatraya @ Dinesh Nagare ..Applicant/Appellant
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. Niteen V. Pradhan, Senior Advocate i/by Shubhada D. Khot,
Danish Patel, Shambhavi Desai & Gayatri Khanwilkar, for the
Applicant/Appellant.

Mrs. M. R. Tidke, APP for the Respondent/State.

Mr. M. S. Ansari, for the Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 11th JANUARY, 2024

PC.

1. Heard learned advocate for the Applicant/Appellant,
learned APP for the State and learned advocate for the Respondent
No.2.

2. This application is filed seeking bail. Applicant is original
Accused No.18, who is convicted for the offences punishable under
Sections 302, 307, 323, 143, 144, 147, 148, 149, 120(B), 109, 212
of IPC r/w 35 of Mumbai Police Act and is sentenced to suffer
rigorous imprisonment of three years. Learned Senior Advocate
submits that the present Applicant/Appellant is named only by two
alleged eye witnesses i.e. PW-7/mother of the deceased and PW-8.

In the evidence of mother, only what is stated against the Applicant/Appellant is that he was present and no overt act is alleged against him. So far as PW-8 is concerned, the role assigned to this Applicant is only that he assaulted the victim with stick. So far as the common intention is concerned, he submits that there is no evidence against the present Applicant/Appellant. Accused No.17 is already released by this Court by order dated 31st October, 2023. He submits that during the trial the Applicant/Appellant was on bail, there is no allegation that he has misused liberty granted to him. The role of the present Applicant/Appellant is similar to that of Accused No.17 and prays for bail.

3. Learned APP submits that there are criminal antecedents. There are total five offences registered against the present Applicant/Appellant and submits that it is not a fit case to grant bail.

4. Learned advocate for the Respondent No.2 vehemently opposes the application. He submits that out of five offences, three are lodged with the same Police Station and prays for rejection of the Application.

5. This Court has considered the evidence of PW-7 and PW-8. From the evidence, it is seen that no major act is alleged against the present Applicant/Appellant, though they are eye witnesses to the incident and happens to be related to the deceased. So far as

criminal antecedents are concerned, those were already considered by this Court while granting bail during trial in order dated 16th April, 2018. So far as the present case is concerned, this Court finds that knowledge or common intention is not shown on his part except his presence at the time of incident. This Court thus is inclined to grant bail.

6. The Application is therefore allowed. Substantive sentence imposed by the judgment and order dated 11th July, 2023 in Sessions Case No.68 of 2017 stands suspended.

7. Applicant be released on bail on executing PR bond in the sum of Rs.15,000/- with one surety in the like amount.

8. Applicant shall attend concerned Police Station once in a month on every first Sunday between 10.00 a.m. to 12.00 noon.

9. Applicant shall furnish his present address and other contact details including his mobile number to the concerned Police Station. In case, there is any change in any of the above mentioned details, Applicant shall keep informed about the same.

10. The Application stands disposed of.

[KISHORE C. SANT, J.]