

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAILAPPLICATION NO. 2565 OF 2014

Chatrapati Gangadhar Kedare & Anr. ... Applicants
vs.
The State of Maharashtra ... Respondents

Mr. Ganesh Gole i/b. Mr. Ritesh Ratnam, Advocate for the applicant
Mrs. Veera Shinde, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 29th January, 2015.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicants herein are arrested on 21.7.2014 in Crime No.181 of 2014 registered at Ambad Police Station, Nashik for the offence punishable under Sections 302, 323 read with Section 34 of IPC. The investigation is completed and charge sheet is filed.

2. It is the case of prosecution that on 20.7.2014, Vijay Yadav lodged a report at the police station alleging therein that on 17.7.2014 at about 8.45 p.m. There was a trivial quarrel between the son of Rohit and the son of applicant No.1 as one of the sons of the present applicant No.1 spat on the person of Rohit which

gave cause for a trivial altercation. However, the complainant made attempts to pacify the boys. Th complainant also had been to the house of the applicant and had informed him that the incident shall not recur. It is alleged that on 20.7.2014 at about 7.20 p.m., the applicant had noticed a crowd at Ramlila Chowk. He rushed to the spot and he had seen that the present applicants along with two other sons of the applicant No.1, who happen to be juveniles in conflict with law, were assaulting his son Rohit. According to the complainant, the present applicant No.1 was holding the deceased and was facilitating the assault by the other sons. Rohit had sustained bleeding injuries on his person. He was taken to the hospital where he was declared dead.

3. That Column No.17 of Post-mortem Notes shows that the deceased had sustained 3 incised wounds on vital parts of the body such as neck, chest and right hypochondriac region. The cause of death is stab injury on neck and chest which is sufficient to cause death in ordinary course of nature individually and collectively.

4. The investigation was set in motion. The accused, who are juveniles in conflict with law, are at large. The Investigating Officer has recorded the statement of the eye-witnesses.

5. The learned counsel for the applicant has placed reliance on the statement of one of the eye-witnesses i.e. Karan Bodhak and Amol Burkul. According to Karan Bodhak, on 27.7.2014 at 8.00 to 8.15 p.m., Rohit had questioned Santosh as to why he was staring at him, Santosh had challenged him. Thereafter, Rohit had been to Ramlila Chowk and was standing with his friends. At that time, Karan saw Santosh returning along with the present applicants and the other juveniles in conflict with law . They approached the witnesses. Santosh and Ganesh i.e. applicant No.2 had slapped the witness. In a short while, they had seen Rohit standing at a distance. Amol came running and informed that the family members of Kedar are assaulting Rohit. His friends had fled from the spot. He has specifically alleged that the present accused caught hold of Rohit, whereas Vishal had assaulted him and Santosh had caused incised wounds on the person of Rohit.

6. It prima facie appears that the present applicants were holding Rohit. The learned APP submits that although there is no allegation that the present applicants have actually mounted assault on Rohit, it can be said from the statements of the eye-witnesses that the present applicants had facilitated the assault which are in all four incised wounds on vital parts of the body of deceased. In fact applicant No.1 who happens to be the father of applicant No.2

and 2 juveniles in conflict with law ought to have restrained his sons from committing the ghastly act. He cannot take benefit of the fact that he was only holding the deceased when in fact he has facilitated the assault.

7. The learned APP submits that in fact, as an elderly person, it was incumbent upon the applicant No.1 to pacify the quarreling young group. However, he has participated and this would show that there is common intention between father and three sons. In view of this, the Court is not inclined to grant bail.

The application being sans merits, stands rejected.

8. The observations made hereinabove are prima facie in nature and the Sessions Court shall not be influenced by the same at the time of trial.

(SMT.SADHANA S.JADHAV, J.)