

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 334 OF 2016**

Sandesh Bajirao Ingulkar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Akram Kapoor for the Applicant

Mr. Arfan Sait, A.P.P for the Respondent-State

Mr. S. K. Shinde, PI (Crimes) from Bharati Vidyapeeth Police Station, Pune is present

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 4th MAY, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P. for the State.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 69 of 2015 registered with the Bharati Vidyapeeth Police Station, Pune, for the alleged offences punishable under Sections 302, 323, 143, 144, 147, 148, 149 of the Indian Penal Code.
3. The deceased is Vijay Chandane and the first informant is his brother Ravindra Chandane. Admittedly, the first informant is not an eye-

witness to the alleged incident, which took place on 4th March, 2015 at about 8:30 p.m. According to the complainant, on 4th March, 2015, when he returned from work, one watchman who was working with his brother in Samruddhi Enterprises, came running and disclosed to him that his brother - Vijay Chandane's body was lying in an open space near the Company and that he was bleeding from his head. Accordingly, the complainant went to the spot and found that the deceased had sustained grievous injuries. The deceased was taken to the hospital where he was declared dead. Accordingly, a complaint was lodged by Ravindra Chandane as against unknown persons.

4. Learned Counsel for the applicant submitted that the present applicant is Sandesh Ingulkar and not Akshay Ingulkar, as is alleged by the prosecution. He submitted that there is no statement recorded to show that the present applicant is Akash Ingulkar or that he has an alias name. He relied on the Aadhar card, which is on page 183 of the application. He submitted that the statements of the eye-witnesses show that no specific overt act has been attributed to the present applicant, with regard to the assault by the applicant on the deceased. He relied on the statements of

Pravin Kumbhar and Prem Malhotra in support of his submission. He submitted that the cause of death is head injury. He submitted that the applicant is aged 20 years and is a student studying in Karmaveer Bhaurao Patil Junior College, Pune. He submitted that investigation is complete and charge-sheet is filed and that the applicant be enlarged on bail. Learned Counsel for the applicant also submitted that co-accused Ganesh Mangle, Bhavdya and Akash Thorat, despite being named by the eye-witnesses, have been enlarged on bail and as such, also seeks bail on the ground of parity.

5. Learned A.P.P opposed the bail application. He submitted that the statements of eye-witnesses Pravin Kumbhar, Prem Malhotra and Lalit Gore show that the applicant was present at the spot. Learned A.P.P submits that the statement of eye-witness-Lalit Gore shows that the applicant had also assaulted the deceased with an iron rod. He further submitted that there is a recovery of an iron rod at the instance of the applicant. Learned A.P.P states that on the very same day, two NCs were lodged against the present applicant.

6. Perused the papers, in particular, the statement of the eye-witnesses. Admittedly, the complainant is not an eye-witness to the incident of assault on Vijay Chandane. The statement of Pravin Kumbhar shows that on the date of the incident, 10 to 15 persons came on motorcycles with bamboos, sticks and steel pipes. The said witness has named Akash Thorat, Chetan Sarode, Akshay Ingulkar (applicant), Ganesh Mangle and Bhavdya. He has stated that Chetan Sarode assaulted the deceased on his head with a wooden stick. No specific overt act is attributed by the said witness to the applicant. Eye-witness Prem Malhotra has also named Akash Thorat, Chetan Sarode, Akshay Ingulkar (applicant), Ganesh Mangle and Bhavdya, as being present along with 10 to 15 persons. The said witness has also attributed a specific overt act to Chetan Sarode on the deceased. The said witness has stated that the present applicant had also assaulted him (i.e. Prem Malhotra). However, the injury certificate of Prem Malhotra is not on record. The said witness has also not attributed any overt act to the present applicant.

7. The third eye-witness - Lalit Gore, in his statement, which is at page 144 of the application, has named Akash Thorat, Chetan Sarode,

Akshay Ingulkar (applicant), Ganesh Mangle and Bhavdya, as being present along with 10 to 15 other persons. The said witness has stated that Chetan Sarode was armed with a wooden log and that the present applicant was armed with a steel pipe and Ganesh Mangle, Akash Thorat and Bhavdya were armed with bamboos and sticks. The said witness has stated that Chetan Sarode assaulted the deceased with a wooden log on his head. The said witness has named the applicant as having assaulted the deceased with a steel pipe, however, it is not stated that on which part of the body, the applicant assaulted the deceased. There appears to be some discrepancy with regard to the overt act attributed to the applicant. Chetan Sarode is alleged to have assaulted the deceased with a wooden log on his head. All the 3 eye-witnesses have consistently stated the same. The cause of death is injury over head. As far as recovery of steel pipe at the instance of the applicant is concerned, the same is not blood stained. Investigation is complete and charge-sheet is filed.

8. The NCs which were lodged against the applicant on the very same day i.e. on 4th March, 2015, cannot be considered as his antecedents.

9. Considering the aforesaid, the fact that investigation is complete and charge-sheet is filed, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be released on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall report to the Investigating Officer of the concerned Police Station once in a month on the first Saturday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- (ii) The applicant shall not tamper or attempt to contact the complainant or any witness concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number within one week of his release and/or change of residence or mobile details, if any, from time to time to the Court

seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial;

(vi) The applicant shall file an undertaking in the trial Court with regard to clause Nos. (ii) to (v) within two weeks of his release;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

10. The Application is allowed in the aforesaid terms and is accordingly disposed of.

11. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

12. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.