

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

CRIMINAL BAIL APPLICATION NO.1154 OF 2015

Santosh @ Appa Namdev Kolpe .. Applicant

v/s.

The State of Maharashtra. .. Respondents

**ALONGWITH
CRIMINAL APPLICATION NO.1052 OF 2015
IN
CRIMINAL BAIL APPLICATION NO.1154 OF 2015**

Gajanan Jeevraj Kadam ... Applicant

In the matter between
Santosh @ Appa Namdev Kolpe .. Applicant

v/s.

The State of Maharashtra. .. Respondents

Mr. Sudip Pasbola, Adv. i/b. Rahul Arote, Adv. for the Applicant
Mrs. G.P. Mulekar, APP for the Respondent-State.
Mr. Madhav Jamdar, Adv. i/b. Mr. Rohan P. Surve, Adv. for the
intervener.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : FEBRUARY 03, 2016.**

P.C.

1. This is an the application under Section 439 of Cr.PC. filed by

the aforesaid applicant who is facing trial in Sessions Case No.165 of 2013 pending on the file of the Sessions Court, Pune for the offences under Section 302, 120B, 143, 147, 148, 149 of the Indian Penal Code.

2. The case of the prosecution in brief is that on 7.11.2012 the applicant along with the other co-accused formed an unlawful assembly armed with deadly weapons and committed murder of Vinayak Kadam. Shri Shivaji Kadam, the father of the deceased lodged the FIR pursuant to which the Raigad Police Station registered Crime NO.169 of 2012 for the offences punishable under Section 143, 147, 148, 149, 302 of IPC. The applicant was arrested on 16.11.2012. Crime was investigated and chargesheet was filed before the learned JMFC, Pune. The case being Sessions Triable was committed to the Sessions Court, Pune. The applicant had filed application for anticipatory bail which came to be dismissed by the learned Addl. Sessions Judge vide order dated 21.2.2015. Hence the present application.

3. The learned Counsel for the applicant has submitted that the co-accused against whom similar allegations have been made are

released on bail. The Learned Counsel for the applicant submits that apart from the statement of Rahul and the recovery panchanama, which is a weak piece of evidence, there is no other material to indicate that the applicant herein was involved in committing the said crime. He therefore claims that the applicant is entitled for bail.

4. The learned APP submits that there is prima facie material on record to show the involvement of the applicant in committing the crime which is of serious nature. She has stated that the gravity of the offence itself would not justify grant of bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. The records prima facie reveal that Shivaji Kadam, father of the deceased Vinayak had lodged FIR that his son was murdered. The scene of offence panchanama indicates that the incident had occurred near the house of one Eknath Bhilare. The deceased was shifted to the hospital. The post mortem report indicates that about 30 injuries i.e. incise wounds and chop wounds were inflicted over the body of the deceased. It is opined that the death of said Vinayak was due to traumatic and hemorrhagic shock

due to chop injuries over head. The medical report therefore prima facie reveals that said Vinayak was assaulted and murdered in a most brutal manner.

6. The statement of Rahul Pawar Prima facie indicates that on 7.11.2012 at about 11.30 to 12 p.m. he had seen one white colour car giving dash against the motorcycle of Vinayak. He has further stated that about 5-6 boys got down from the car, they were armed with sickle and they proceeded towards Vinayak. He has further stated that on seeing the said boys Vinayak ran towards the hotel of Eknath Bhilare. This witness had identified co-accused Amol Shilankar. He has stated that Amol Shilankar and other 4-5 boys ran after said Vinayak. He has heard them saying that said Vinayak should be killed. He has seen them entering the house of Bhilare and thereafter coming out of the house of Bhilare with sickle. He had also seen blood stains on their clothes as well as on the sickle. He had stated that he knew the said 4-5 boys who had accompanied co-accused Amol Shilankar. however, he did not know their names. In the supplementary statement recorded on 18.11.2012 the said witness had submitted that he had learnt the names of the said 4-5

boys, and he had disclosed the names of the said 4-5 boys including that of the applicant herein.

7. The identification parade was held on 10.1.2013 and the said witness had identified the applicant herein as one of the assailants. The records further reveal that while the applicant was in custody blood stained sickle was recovered pursuant to disclosure statement made by the applicant. The aforesaid circumstances coupled with the statement of Rahul prima facie shows the involvement of the applicant in commission of the crime which is of serious and grave nature.

8. It may be mentioned here that the co-accused Abhimanyu, Vikas and Balaji Kamdm were released by this Court by this court by order dated 7th May, 2013 as they were not identified in the test identification parade. The co-accused Parag and Shailesh were released on bail as apart from their identity there was no material against them to show their involvement. It was held that their clothes were not stained with blood and that no weapon was recovered at their instance. In the instant case, as stated earlier, apart from the statement of Rahul, there is prima facie material to

show that the weapon of offence was recovered at the instance of the applicant and furthermore, the clothes of the applicants were stained with blood. Hence the applicant is not entitled for bail on the ground of parity.

9. In the circumstances and in view of the discussion supra, the application is dismissed.

10. In view of dismissal of bail application, application for intervention being APPP/1052/2015 does not does not survive and the same is accordingly disposed of.

(ANUJA PRABHUDESSAI, J.)