

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AURANGABAD**

CRIMINAL APPLICATION NO. 3044 OF 2017

Sachin s/o Vijay Rathod ... Applicant

VERSUS

The State of Maharashtra ... Respondent

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Mr. N.S.Ghanekar, advocate for the applicant

Mr. S.B.Joshi, A.P.P for respondent

.....

WITH

CRIMINAL APPLICATION NO. 3218 OF 2017

Sachin s/o Chaitram Rathod ... Applicant

VERSUS

The State of Maharashtra & anr. ... Respondents

.....

Mr. S.S.Kulkarni, advocate for the applicant

Mr. K.N.Lokhande, A.P.P for respondents

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CORAM : K.L.WADANE, J.

DATED : 28th JULY, 2017

O R D E R :

Heard learned counsel appearing for the
applicants and learned A.P.P. for the respondent.

2. One Ramsing Gulab Pawar, father of deceased Vinod lodged complaint to the police station alleging that on 13.5.2016 at about 8.00 a.m. due to dispute on the previous day meeting was arranged with Sarpanch of the village, wherein other accused persons were present. At that time, other accused persons started abusing his son Vinod. Another accused Dnyaneshwar Rathod assaulted him by Gupti in front of all the witnesses. When the informant was intervening other accused persons they also assaulted him. The informant was injured and therefore he was taken to the hospital where he was declared to be dead.

3. Supplementary statement of informant was recorded on 16.5.2016 wherein he has corrected the name of daughter of Malkhan Pawar as Nikita and he has corrected earlier statement by referring weapon knife instead of Gupti. The third supplementary statement was recoded on 23.7.2016 wherein it has been mentioned that when the informant was intervening the scuffle, another

accused Prakash, the present applicants and one Pravin have caught hold Vinod and another accused Nana, Madhukar assaulted Vinod by means of knife and he came to know about the same later on.

4. Looking to the statements of these witnesses, it appears that in earlier statement i.e. complaint as well as supplementary statement on 16.5.2016 he has not taken the name of present applicants nor he has alleged any act or overt act at the time of incident. His third supplementary statement is also about the hear say information.

5. Names of present applicants came in picture only on 31.5.2016 when the statement of one of the injured namely Malkhan was recorded. Since initial version of the witnesses was different and it has not taken the name of present applicants as assailants or participants in the crime.

6. Earlier statements of witness Raghunath, Umesh and Sahebrao were silent about presence of applicants at the relevant time on the spot. Same is the case of witnesses namely Nana, Nikita.

7. Thus, prima facie, it appears that subsequently the witnesses have improved their version and have implicated the present applicants in the crime. In fact, if at all they were participants in the crime, there was no difficulty to the complainant or other witnesses to mention their names in the complaint or there was no reason for the witnesses for non-disclosure of their names. One of the accused who is stated to be assaulted to Malkhan is already released on bail by the Sessions Court. In view of above, the applicants are entitled for bail.

8. Hence, the following order.

(i) Criminal Applications are allowed.

(ii) Each of the applicants shall be released on bail in connection with Crime No. 68 of 2016, registered with Sakri police station, District Dhule, on their furnishing P.R. bond of Rs.10,000/- with one solvent surety in the like amount.

(iii) Applicants shall not tamper with the evidence of prosecution in any manner.

9. Both the Criminal Applications are
disposed of.

(K.L.WADANE, J.)

dbm