

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

BAIL APPLICATION NO. 2098 OF 2018

Vishal Ramkrushna Sangle

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Abhishek Pungliya for the applicant.

Mr. S.R. Agarkar, APP for the State.

Mr. M.C. Vasave, API, MIDC Sinner Police Station present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 17th SEPTEMBER, 2018.

P.C.:

. This is an application under Section 439 of Criminal Procedure Code filed by the aforesaid applicant, who is facing trial in Sessions Case No.54/2018 pending on the file of Additional Sessions Judge, Court No.4, Nashik for offences punishable under section 302 of the Indian Penal Code. The said case arises from C.R.No.108/2017 registered at Sinnar MIDC Police Station, Dist. Nashik.

2. Heard Mr. Abhishek Pungliya, learned counsel for the applicant. He submits that the applicant is a young boy of 24 years of age and that he was studying in second year of engineering college and that he has no criminal antecedents. He has further submitted that there are no eye witnesses who have actually seen the incident of assault. He

further submits that the recovery panchanama cannot be relied upon as there is no forensic report to show that the alleged weapon was stained with blood. He submits that the charge sheet is already filed and there is no possibility of the applicant interfering with the witnesses and/or thwarting the course of justice.

3. Mr. S.R. Agarkar, learned APP submits that there are two eye witnesses who had actually seen the applicant inflicting the injuries on Shiva Jagtap. In addition, there is evidence in the form of extra judicial confession. Learned APP also submits that the medical evidence also supports the case of the prosecution. He submits that the weapon of offence was recovered pursuant to the disclosure statement made by the applicant. The said weapon was stained with blood. The report of forensic expert is awaited.

4. I have perused the records and considered the submissions made by the learned counsels for the respective parties.

5. The aforesaid crime was registered pursuant to the first information report lodged by Balu Achari, who was employed as Security Guard of F.D.C. Company. He had stated that on 13/10/2017,

at about 02:40 to 03:00 p.m., while he was on duty at F.D.C. Company, he heard noise towards the parking area. He and the security officer-Patil went to the place of the incident and saw Shiva Jagtap lying in a pool of blood. He had sustained several injuries. He has stated that the said Shiva Jagtap was immediately taken to the Siddhivinayak Hospital but he was declared dead. This witness had stated that he had learnt from the friends of Shiva Jagtap that the deceased Shiva was friendly with the sister of the applicant and that the applicant had earlier threatened the deceased not to interfere with his sister.

6. The statement of Mohan Kangane and Shyam Jumnake *prima facie* reveal that on 13/10/2017, at about 02:30 p.m., they were in front of the gate of F.D.C. Company. These witnesses have stated that the deceased Shiva was standing near the wall of F.D.C. Company. When they went to park their motor cycle in the parking area, they heard Shiva crying for help. When they reached the place of incident, they saw Shiva lying on the ground. They had seen the applicant inflicting injuries on Shiva with a koita. They shouted for help and that the applicant ran away from the place of the incident on seeing the people gathering at the place of the incident.

7. The statement of Vikram Barde also *prima facie* indicates that on 13/10/2017, at about 02:30 p.m., the applicant had told him that he had some work in FDC Company and had told him to accompany him in the Company premises. The applicant got down at the company gate and told him to wait for sometime and proceeded towards the gate. As the applicant reached near the gate, he removed a koita which was concealed in his shirt. This witness has stated that he heard someone screaming and immediately thereafter, the applicant came running towards him with a koita stained with blood. He has stated that the clothes of applicant were also stained with blood. When he asked the applicant as to what had happened, he told him not to ask any thing and to start the motorcycle and proceed. Later, on the way, the applicant told him that he had committed murder of Shiva Jagtap.

8. The statements of two eye witnesses *prima facie* indicates that the applicant herein was involved in inflicting injuries on Shiva Jagtap by means of koita. The statement of Vikram Barde *prima facie* indicates that he had seen the applicant going towards HDFC gate with a koita in his hand and that after he had heard some commotion, the applicant had came running with a blood stained koita and that his clothes were also stained with blood. His statement also indicate that the applicant

told him that he had committed murder of Shiva Jagtap. The material on record, particularly the statement of Vikram Barde *prima facie* reveals that the crime was pre-meditated.

9. The post mortem report *prima facie* indicates that the deceased had sustained as many as 19 injuries. Out of these, 18 injuries were in the nature of incised wounds and stab wounds on vital parts of the body. The Doctor has opined that the cause of death was due to : *Hemorrhagic shock due to multiple stab injuries over chest and abdomen which are sufficient to cause death in ordinary course of nature. All injuries are antemortem in nature, fresh in duration. Injuries are caused by curved pointed sharp edged weapon.* The medical evidence, therefore, *prima facie* supports the case of the prosecution.

10. The material on record *prima facie* indicates that blood stained koita / sickle was recovered from the applicant as per the disclosure statement made by the applicant. Furthermore, blood stained clothes worn by the applicant on the date of the incident have also been recovered. Learned APP submits that the forensic report is awaited. Recovery of blood stained clothes and weapon is only a corroborative recording of evidence. Even if these circumstances are not considered

at this stage for want of forensic report, the statement of the eye witnesses *prima facie* show the involvement of the applicant in committing brutal murder of Shiva Jagtap who was barely 24 years of age. Thus, there are reasonable grounds to believe that the applicant is guilty of an offence punishable with death or imprisonment for life.

11. Considering the nature and gravity of offence, I am not inclined to grant bail. Hence, Bail Application is dismissed.

12. Suffice it to say that the aforesaid observations shall not be construed as an expression of opinion on the merits of the case.

(SMT. ANUJA PRABHUDESSAI, J.)