

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.974 OF 2019

Swapnil @ Baba Maruti More	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Pandit Kasar for applicant.
Smt.A.A.Takalkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 8th November 2019

PC :

1. This is an application for bail in connection with CR No.201 of 2018 registered with Chinchwad Police Station for offences under Sections 132, 147, 148, 149, 302, 120B of Indian Penal Code and under Section 4(25),(27) of the Arms Act. The applicant was arrested on 10-6-2018. The incident had occurred on 29-5-2018.

2. The prosecution case is that the nephew of the first informant had visited the petrol pump for bringing petrol for refilling the car. He was accompanied by Chand Mohamad Shaikh. In the FIR it was stated that Chand Mohamad Shaikh informed him that four persons came on motorcycle. The names of two persons amongst them were disclosed as Ranjit Chavan and Swapnil @ Baba More. Two other persons were armed with weapon, such as sickle and rod. All four of them assaulted Aakash Landge. The injured succumbed to the injuries. The statement of the witnesses were recorded. The statement of Chand Mohamad Shaikh was recorded on 30-5-2018. He stated that the applicant and Ranjit Chavan had visited the place

of incident on motorcycle. Ranjit Chavan was holding the sickle. Aakash Landge started running. He was chased by the accused. He saw applicant and others running after Aakash Landge. After some time he saw Aakash lying in injured condition. On completing investigation charge sheet was filed. The accused were arrested. The main accused Ranjit Chavan was granted bail by invoking Section 167(2) of Cr.PC. The other accused Aashutosh @ Sonya Varade was juvenile and hence released on bail. Accused Praful Dhakane and Abhishek Gosavi were also granted bail by Sessions Court. The applicant is the only accused who is in custody.

3. Learned counsel for applicant drew my attention to the FIR, statements of Chand Mohamad Shaikh and other material on record. It is contended that the applicant has been falsely implicated in this case. The statement of first informant is based on hear say evidence. The eye witness Chand Mohamad Shaikh has not stated that the applicant was seen assaulting the deceased. Although there is recovery of weapons allegedly at the instance of applicant, it is not the case of prosecution that the applicant was holding weapon at the time of alleged assault.

4. Learned APP submitted that there is evidence of witnesses who have seen the applicant at the place of incident. Chand Mohamad Shaikh in his statement has referred to the involvement of applicant as the person who was chasing the deceased. Learned APP also pointed out the statement of Rohit Jadhav who had stated that the applicant, accused Ranjit and Sonya Varade were assaulting the deceased. There are two cases registered against the applicant with Chinchwad Police Station u/s 324 of IPC.

5. The first informant is not the eye witness to the incident. He has narrated the incident as per the purported version of Chand Mohamad Shaikh. The statement Chand Mohamad Shaikh was recorded on 30-5-2018. On perusal of the statement of said witness it is apparent that what was narrated by the complainant and his version differs. The role ascribed by Chand Mohamad Shaikh is that the applicant was seen chasing the deceased. He is not the eye witness to the actual assault. He has not stated that the applicant was holding any weapon in his hand. The statement of Rohit Jadhav who has allegedly seen the accused assaulting the deceased was recorded on 16-6-2018. His statement was recorded belatedly. He has not stated that the applicant was not holding any weapon at the time of assault. His presence is not referred to by the prime witness Chand Mohamad Shaikh who was with the deceased on the date of incident. All the accused are already granted bail. The presence of Rohit Jadhav is not referred to by other witnesses at the scene of offence. His belated recorded statement speaks volumes about its authenticity. Taking into consideration aforesaid circumstances bail can be granted to the applicant.

6. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.9074 of 2019 is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.201 of 2018 registered with Chinchwad Police Station, on his furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

- (iii) The applicant shall stay out of the jurisdiction of Chinchwad Police Station till conclusion of trial;
- (iv) The applicant shall furnish details of his residence after he is released on bail to the Investigating Officer;
- (v) The applicant shall attend the Trial Court proceedings regularly unless he is exempted for some reason, and shall not tamper with the evidence.

(PRAKASH D. NAIK, J.)

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