

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

BAIL APPLICATION NO. 1251 OF 2019

Vishal Bira Chougule Applicant

versus

The State of Maharashtra Respondent

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- Mr. Kuldeep S. Patil, Advocates for Applicant.
- Mr. S. H. Yadav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 21st AUGUST, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with C.R. No.287/2017 registered with Kavathemahankal Police Station, District Sangli, under Sections 302, 324, 143, 147, 148, r/w. 149 of IPC and under Section 4 and 25 of the Indian Arms Act.

2. The applicant is arrested on 4/12/2017 and since then, he is in custody. The FIR is lodged on 2/12/2017 by one Tanaji Bhosale in respect of murder of his son Ashok Bhosale. He has

stated in his FIR that on 1/12/2017, the informant and his two sons Ashok and Prakash had gone to attend a programme near a temple. While the dance programme was going on, the applicant and his other associates were creating trouble. The programme could not go on peacefully. It is further mentioned that the informant's sons Ashok and Prakash lodged their protest with the panchas and they requested the panchas to tell the applicant and others to behave properly as they were creating trouble in the programme. The applicant and his associates got angry. While the informant and his friends returning home at around 1.00 a.m. they were encircled by the applicant and six others. They were carrying weapons like Gupti. It is alleged that accused Sandeep and present applicant assaulted Ashok on his right thigh. Others were threatening the informant and his companion. Informant's other son Prakash tried to intervene but he was also assaulted. Thereafter, all of them left the spot. The injured Ashok was taken to Government hospital where he was declared dead before admission. On this basis, the FIR was lodged.

3. The investigation was carried out and chargesheet was filed. The chargesheet contains statements of various eye witnesses namely Dnyaneshwar Bhosale, Sarika Bhosale, Shashikant Babar, Vaibhav Patil. The statements of these eye witnesses were recorded under Section 164 of Cr.P.C. Witness Dnyaneshwar Bhosale has stated that the applicant had assaulted the deceased with kukri. Other eye witnesses have given statement that all the accused had assaulted the deceased with weapons. Only witness Vaibhav Patil has narrated a different story. He has stated that the accused Sandeep Chougule and Sagar Chougule had assaulted the deceased with kukri and gupti. However, he has also spoken about presence of the applicant amongst assailants.

3. Heard Mr. Kuldeep Patil, Ld. Counsel for the Applicant and Mr. S. H. Yadav, Ld. APP for the State.

4. Mr. Patil submitted that statement of Vaibhav Patil shows that the applicant has not caused any life threatening injury. He

further submitted that statement of Vaibhav Patil shows that the informant and other eye witnesses are not telling the truth. He further submitted that the incident had occurred on the spur of the moment and there was not premeditation involved. He further submitted that the injuries were not on vital parts of the body and there was no intention to commit murder of the deceased.

5. As against these submission, Ld. APP pointed out that the eye witnesses are consistently making statement about presence of applicant at the spot at the time of incident. A specific role is attributed to the applicant of assaulting the deceased on his right thigh. The post mortem notes also support this statement.

6. I have considered the statement of eye witnesses and post mortem notes. The deceased had suffered three injuries. Two of the injuries were on the right thigh. Those injuries were quite serious. The cause of death was mentioned as 'Hemorrhagic shock due to multiple injuries'. Except for Vaibhav Patil other eye witnesses are consistent and even Vaibhav Patil has mentioned the

presence of the applicant at the spot. The injured eye witness i.e. brother of the deceased has specifically given role to the present applicant of assaulting the deceased below the right thigh. Thus, there is sufficient material against the present applicant showing his involvement in a serious offence. The incident has not occurred on a spur of the moment. The dispute arose during the function and thereafter when the informant and deceased were returning home, the accused arrived there with weapons. Their intention to assault the deceased is clear. The nature of injury was quite serious causing death of the deceased. In this view of the matter, no case is made out for release of the applicant on bail. Hence, the application is rejected.

(SARANG V. KOTWAL, J.)