

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

CRIMINAL BAIL APPLICATION NO. 1523 OF 2019

Shri. Vikas Bhola Sing and Anr.

.... Applicants

Versus

The State of Maharashtra

.... Respondent

Mr. Kedar J. Patil I/b. Yogesh Gangan for Applicants.

Smt. A. A. Takalkar, APP for the State/Respondent.

Mahendra M. Patil, PN/2016, Uran P.Stn. Navi Mumbai, present.

CORAM :SARANG V. KOTWAL, J.

DATE :11th SEPTEMBER, 2019

P.C. :

1. The Applicants are seeking their release on bail in connection with C.R.No. I 177/18 registered with Uran Police Station for the offence punishable under section 302 r/w. 34 of the Indian Penal Code. The applicant No.1 was arrested on 19/09/2018 and the applicant No.2 was arrested on 14/09/2018 and since then they are in custody. The investigation is over and the chargesheet is filed.

2. The offence is registered in respect of murder of one Gulab Padghan. The FIR is lodged by one Navaj Bidri on 14/09/2018. He has stated in his FIR that the deceased and accused Ashok Patel, Sandeep Kumar and Vikas Sing alongwith others were doing labour work at a quarry near Chirle Reliance Petrol pump. The deceased and these accused were staying together in a tin shed. On 13/09/2018, at about 10.30p.m., the informant's employer Kundan Bhoir directed him to go to the site at Chirle. The informant was told that quarrel had taken place at the site. The watchman was on leave. The informant and his companion Abdul went to the site, later on, at 11.30p.m. It was dark there. The informant looked around in the light of his mobile phone. He saw that Gulab Padghan was lying in a pool of blood. His head and face were crushed with stones. He looked around but he did not see the accused Ashok, Sandeep and Vikas anywhere. So, on the basis of suspicion he lodged his FIR.

3. The postmortem shows that the deceased had suffered seven injuries on his face and head. The cause of death was mentioned as 'Intracranial Hemorrhage due to head injury'. The

investigation was carried out and the chargesheet was filed.

4. Heard Shri. Kedar Patil, learned counsel for the applicants and Smt. A. A. Takalkar, learned APP for the State.

5. Learned counsel for the applicants submitted that in the entire chargesheet there is no single circumstance against either of the applicants which can be termed as incriminating circumstance. He submitted that the FIR is lodged only on the basis of suspicion, because the applicant Vikas was not found at the spot. He submitted that Shrikant applicant No.2 was not even mentioned in the FIR. Only allegation against the applicant No.2 Shrikant was that, a Bolero Jeep was recovered at his instance, but there was no connection between crime and said recovery.

6. Learned APP submitted that there are statements of the employer Kundan and Manager Vinayak Koli showing that the deceased used to quarrel with the accused Ashok, applicant Vikas and others.

7. I have considered these submissions. With the assistance of the learned counsel for the applicant, I have perused the entire charge-sheet. Besides FIR, the statement of employer

Kundan Bhoir shows that the deceased used to complain that the accused Ashok, applicant Vikas and Sandeep Kumar used to quarrel with him and were harassing him. This witness Kundan had pacified both groups. On 13/09/2018 in the evening, the deceased, as well as, accused Ashok had called him. Thereafter in the night he had instructed the informant to visit the site and see the situation. The statement of Manager Vinayak shows that the accused and the deceased were addicted to liquor and used to fight after consuming liquor. He has further stated that at 8.30p.m. the accused Ashok telephonically told him that the deceased Gulab was fighting with others under influence of liquor. Even the deceased had called him and had told him that there was no watchman at the site. Besides this statement, there is hardly any reference to the present applicants. The circumstance of recovery of Bolero Jeep at the instance of applicant No.2 is insignificant because there is nothing in the charge-sheet to show connection of this recovery with the alleged offence.

8. Even against the applicant No.1, besides suspicion and past history of quarrel, there is no other incriminating

circumstance. Co-accused Sandeep is already granted bail by the Court of Sessions, Raigad, at Alibag. Therefore, on the ground of parity also, the applicants deserve to be released on bail. Considering all these factors, I am inclined to grant bail to both the applicants.

9. Hence, the following order :

ORDER

- (i) In connection with C.R. No.I 177 of 2018 registered with Uran Police Station, Navi Mumbai, the applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.25,000/- each (Rupees Twenty Five Thousand each Only) with one or two sureties each in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)