

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

CRIMINAL BAIL APPLICATION NO. 1589 OF 2019

Jameer Munwarali Rangrej

...Applicant

Vs.

State of Maharashtra

...Respondent

- Mr. Kuldeep Patil i/b Mr. Ranjeeth Patil, Advocate for the Applicant.
- Smt. A. A. Takalkar, APP for the State.
- Mr. Milind B. Patil, PI, Sangli City Police Station.

CORAM : SARANG V. KOTWAL, J.

DATE : 2nd AUGUST, 2019

P.C. :

1. The applicant is seeking his release on bail in connection with CR No. 305/18 registered at Sangli City Police Stations under Sections 302, 120-B and 109 of the IPC.

2. The FIR is lodged by one Biroba Narale on 3rd October 2018. He has stated in his FIR, that, on 3rd October 2018, at about 11.00 a.m., when he was on patrolling duty in beat no. 1; he was informed that, there was some incident at college corner behind the temple. The informant went there. He saw that one Sunny Kamble, who was on police record, was lying injured. He had suffered injuries on his head and other parts of the body. He was

removed to hospital. The FIR was lodged against an unknown person.

3. The postmortem notes show that the deceased had suffered ten injuries out of which nine were incised wounds mainly on the head and face. The cause of death was mentioned as death due to head injury. The investigation was carried out. The applicant was arrested on 25th December 2018.

4. The story mentioned in the charge-sheet is that, the deceased had committed murder of one Ravindra Mane and to take revenge, the present applicant instigated and employed accused Akshay Mohite, Suraj @ Ramjan Shaikh, Imam Shaikh, Sandeep Bhosale, one juvenile and others. The actual assault was committed by a juvenile accused by assaulting the deceased with sharp weapon.

5. Heard, Mr. Kuldeep Patil, learned counsel for the applicant and Smt. Takalkar, learned APP for the State.

6. Mr. Patil submitted that even as per the prosecution case, the present applicant was not present at the spot when the offence was committed. The actual assault was committed by other accused. The present applicant is implicated in this case only on suspicion.

The prosecution case is that, the present applicant had conspired with others to commit murder of the deceased. According to the prosecution case, the juvenile accused had committed actual assault. The others were present at the spot, but the applicant was not amongst them.

7. Learned APP on the other hand submitted that the present applicant was the master mind and at his behest this offence was committed.

8. I have considered these submissions and with their assistance, I have gone through the entire charge-sheet. The charge-sheet contains the statement of brothers Ajit and Vijay of the deceased Sunny. They have stated in their statements that, in the past, the deceased was attacked. Five to six boys had pelted stones at him. The deceased was an accused in the case of murder of one Ravindra Mane and he was released on bail. The present applicant and others were therefore holding grudge against the deceased. The deceased had expressed apprehension that the applicant would harm him.

9. Apart from this, there are statements of eye witnesses Dipali

Kamble, who was the sister-in-law of the deceased and Dipak Shinde, who was a friend of the deceased. They had seen the actual assault. Since, admittedly, the present applicant was not present on the spot; their statements do not take the prosecution case any further. Therefore, only piece of evidence which requires serious consideration are the statements of two witnesses namely Saurabh Kamble and Vinod Karpe. Their statements are recorded under Section 161 of the Cr. P. C. on 8th October 2018 as well under Section 164 of the Cr. P. C. on 5th October 2018. The witness Saurabh Kamble has stated in his police statement that about fifteen days prior to the recording of statement, he and his friend Vinod Karpe had gone to Sangli. They had stopped at a pan stall. At that time they have heard a conversation wherein one person wearing white clothes was telling seven to eight boys that since Sunny Kamble had committed murder of his friend, he also had to be murdered. According to Saurabh Kamble, he had seen that person wearing white clothes many times on digital posters in Sangli. He further stated in his statement under Section 164 of the Cr. P. C. that he was knowing that person by name Jameer

Rangrej. Thus, he has named the present applicant as the person who was telling others about committing murder of deceased. His statement under Section 164 is almost on the similar lines except that he has added that he had seen the person wearing white clothes in photographs and he came to know that his name was Jameer Rangrej.

10. Learned counsel for the applicant submitted that there is variance in both these statements on material aspects. In the first statement he has stated that he was knowing the applicant. However, in his subsequent statement recorded under Section 164 of the Cr. P. C, he has stated that he came to know the applicant's name was Jameer Rangrej as he seen him on digital posters. Similarly, witness Vinod Karpe has also narrated the same incident as Saurabh Kamble has stated. He also had claimed that he was knowing the applicant as he had seen him on digital posters. In his statement recorded under Section 164 of the Cr. P. C. he has not stated that he was knowing the person with white clothes by name.

11. No identification parade was held to enable these witnesses

to identify the present applicant. The statements of these two witnesses do not appear to be reliable. Their conduct is unnatural. They claimed that they were knowing deceased Sunny and yet they did not take any step to protect him by informing him that some people were planing to commit his murder. Even after the offence was committed on 3rd October 2018, their statements were recorded on 5th October 2018 and 8th October 2018. The identity of the present applicant is not clearly established. Vinod Karpe has not stated in his statement before the Magistrate that he was knowing the present applicant by name. Saurabh Kamble has stated before the Magistrate that he came to know that the person who was wearing white clothes was named Jameer Rangrej. Thus, their statements are not very clear showing that they were knowing the present applicant before that incident. They were chance witnesses.

12. Thus, the only circumstance against the present applicant is very weak. The applicant is in custody since 25th December 2018. In this view of the matter, I am inclined to grant bail to the present applicant. Hence, the following order:-

ORDER

(I) The Applicant is directed to be released on bail in connection with C.R. No. 305/18 registered at Sangli City Police Stations on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)