

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

CRIMINAL BAIL APPLICATION NO. 1661 OF 2019

Raosaheb Maruti Kambale

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Tejas Hilage for Applicant.

Mr. Kedar J. Patil for Intervener in Cri. App. No.1148/19

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

CORAM :SARANG V. KOTWAL, J.

DATE :11th SEPTEMBER, 2019

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. I 37/18 registered with Ichalkaranji Police Station, Kolhapur, under sections 143, 144, 147, 148, 307, 302, 324, 504 and 506 r/w. 149 of the Indian Penal Code. The prosecution case pertains to murder of one Ganesh Kamble and serious injuries caused to one Ramesh Kamble. The applicant was arrested on 27/02/2018 and since then he is in custody. The

investigation is over and the charge-sheet is filed.

2. The FIR is lodged by one Nagesh Shejale on 26/02/2018. The informant is an eye witness. He has stated that, on 25/02/2018, the present applicant approached this witness and his cousins Ramesh and Ganesh. The applicant picked up quarrel, then he left the place. He came back again at 11.00p.m. with seven others. It is further mentioned in the FIR that the applicant took out a knife and said that Ramesh and Ganesh should not be left alive. It is further mentioned in the FIR that the applicant gave a blow with knife on the stomach of Ramesh and co-accused Sanjay Kamble inflicted knife's blow on the stomach of Ganesh. The others assaulted with sticks. Ramesh and Ganesh had suffered serious injuries. They were removed to Niramay Hospital, Ichalkaranji and thereafter to Kolhapur. On this basis, the FIR was lodged initially U/s.307 of the IPC and other sections. The deceased succumbed to his injuries on 28/02/2018 and thereafter Section 302 of IPC was added. The investigation was carried out and the applicant was arrested.

3. Heard Mr. Tejas Hilage, learned counsel for the

applicant, Mr. Kedar J. Patil, learned counsel for the Intervener in Cri. App. No.1148/19 and Smt. A. A. Takalkar, APP for the State/Respondent.

4. Mr. Hilage submitted that the applicant's entire family is named in the FIR, this shows that it is false implication. He relied on the FIR lodged by the accused in this case Sanjay vide C.R.No. 38/18 at the same police station. That FIR was lodged U/s.324 and other sections, wherein, he has stated that Ganesh and others had assaulted him with a knife, in which, he had suffered injuries to his palm. He, therefore, submitted that in the light of cross complaint, it is more than clear that the applicant is falsely implicated. He, therefore, submitted that the applicant should be released on bail.

5. Learned APP opposed to this application and relied on the statement of eye witnesses including independent eye witnesses whose statements are recorded U/s.164 of Cr.p.c. I have considered all these statements. With the assistance of learned counsel I have perused the charge-sheet annexed to this application.

6. Besides first informant, there are statements of family members of the deceased namely Rajaram Kamble, Anandi Kamble, Bhagyashri Kamble and Jyoti Kamble which corroborate the story of the first informant. The statement of injured eye witness Ramesh is also important. He has also narrated same incident and has ascribed specific role the present applicant. Besides this statement, there are statements of independent eye witnesses like Akshay and Jagdish. Nagesh, Akshay and Jagdish have given their statements U/s.164 of Cr.p.c. Thus, there is overwhelming evidence in the form of eye witnesses, injured eye witness and independent eye witnesses. Their version is supported by the postmortem notes which show that the deceased had suffered as many as eight injuries. The injured Ramesh had also suffered serious injuries on the abdomen and chest. Thus, there is sufficient evidence against the present applicant. The submission that there is cross FIR and, therefore, the applicant is falsely implicated, cannot be accepted. Besides the statement of eye witnesses, there is corroborative piece of evidence in the form of recovery of three knives at the instance of the present applicant.

Considering this overwhelming evidence against the preset applicant, no case is made out for grant of bail. Application is rejected. The intervention application is also disposed of.

(SARANG V. KOTWAL, J.)