

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

BAIL APPLICATION NO. 2194 OF 2019

Sachin Dashrath Hande ...Applicant

V/s

The State of Maharashtra ...Respondent

Mr. Abhinav Chandrachood i/b. Prem Kumar Pandey a/w. Savitri pandey for the applicant.

Mr. S. H. Yadav APP for the State/ Respondent.

(IO)- PSI – Satish Ashok Daule, Aalephata Police Station, Pune Gramin.

CORAM : PRAKASH D. NAIK, J.

DATE : 12TH DECEMBER, 2019

PC :

1. The applicant is seeking bail in connection with C.R. No. 53 of 2019 registered with Aalephata Police Station, Pune, for offences punishable under Sections 302, 201 r/w. 34 of the Indian Penal Code, 1860 ('IPC' for short). The applicant was arrested on 13th February, 2019.

2. The First Information Report ('FIR' for short) was lodged by Arjun Kulkarni. He has stated that the victim Mangesh Kulkarni had left the house on 10th February, 2019. Thereafter, he did not return, hence missing complaint was filed on 11th February, 2019. On 11th February, 2019 dead

body of the deceased was found with his motorcycle at Aaane Taluka - Junnar, District- Pune. The accidental ADR was registered. The investigation proceeded, statement of witnesses were recorded. On completing the investigation charge-sheet is filed.

3. Learned Advocate for the applicant submitted that there is no cogent evidence against the applicant. The applicant has been falsely implicated in the case. The eye witnesses whose statements were recorded immediately after the incident, had not referred to involvement of the applicant as assailant in the crime. The statement of third witness was recorded belatedly after two months, who has referred two persons assaulting deceased. It is further submitted that, subsequently, the witnesses who had stated about assault by single person had changed their version and stated that there were two assailants. The applicant had no motive to commit crime. This is fortified by the statement of witnesses Tejashree Kulkarni and Pratiksha Vishwasrao.

4. Learned APP submitted that there are eye witnesses to the incident. The applicant has participated in the crime,

he has been named by the witnesses in the supplementary statement. The assault by the assailants has resulted in death of the victim.

5. I have perused the charge-sheet. In pursuant to registration of FIR, statement of Amit Phapale was recorded on 12th February, 2019. He has stated that on 10th February, 2019, at about 5.00 p.m., one person approached Mayur Gunjal. Both of them sat in Innova car. After sometime, applicant came there and he had a talk with Mayur Gunjal. There was lengthy discussion between Mayur Gunjal and person sitting in the car. He noticed scuffle between them. Mayur Gunjal was assaulting him. Thereafter, at about 6.00 p.m. Mayur Gunjal told the witness to bring ambulance. The injured was brought out by Mayur Gunjal. He was made to sit in Ambulance. The witness suspected foul play and gave excuse that there is no petrol in ambulance. He advised Mayur Gunjal to take the injured in his vehicle. Thereafter, injured was taken in Innova car. Thus, from the statement of Amit Phapale, it is apparent that except presence of the applicant at the scene of offence, he has not been attributed role of assaulting deceased. On 13th February, 2019, the statement of

Mohammed Latif was recorded. He stated that scuffle was going on between two persons near Innova car. They were unknown to him. He has not referred to presence of third person. Statement of Smt. Madhavi Ugale was recorded on 15th April, 2019, i.e. after a period of about two months from the date of incident. She has stated that Mayur Gunjal and another person had assaulted another persons by wooden log and fist blows. The applicant is not known to her. According to her during conversation between Mayur and another person he had referred to him as "Sachya". It is pertinent to note that, there is no identification parade to establish the fact that, the applicant was the same person who had assaulted deceased with co-accused Mayur. In pursuant to the statement of Smt. Madhavi Ugale, the supplementary statement of Amit Phaphale was recorded on 15th April, 2019. In that statement it is stated that Mayur Gunjal had scuffle with Mangesh Kulkarni in Innova car and after injured was removed from car Mayur and applicant assaulted him. I have also perused the statements of Tejashree Kulkarni and Pratiksha Vishwasrao. Tejashree Kulkarni has stated that Pratiksha Vishwasrao had informed her that she should tell Mangesh not to send her messages or she would file complaint. She made enquiry with

Mangesh. He stated that Mayur Gunjal is threatening him due to issue with Pratiksha. Pratiksha had stated that she was studying classical music with Mangesh. She used to send him messages since he was her teacher. Mayur had told her to keep away from Mangesh. Thus at the most Mayur had alleged motive to assault. Applicant had no connection with the said dispute. The applicant have no motive to assault the deceased. There is no other corroborative evidence to establish the involvement of the applicant in the crime. There are no criminal antecedents against the applicant. Taking into consideration the above circumstances, case for grant of bail is made out.

ORDER

- (i) Bail Application No. 2194 of 2019, is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. 53 of 2019, registered with Aale Fata Police Station, Pune, on furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) The applicant shall report concerned Police Station, once in a month on first Saturday of every

month between 10:00 a.m. to 12:00 noon till further order;

(iv) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)