

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Bail Application No. 2381 OF 2019

Gurudatta Manohar Jadhav

...Applicant

Versus

The State Of Maharashtra

...Respondent

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Mr. Yuvraj P. Narvankar a/w. Chetan Alai, Advocate for the Applicant.

Mr. S.H. Yadav, APP, for the Respondent-State.

Mr. Devendra Chavan, PI of Bhosari Police Station is present in Court.

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CORAM : SARANG V. KOTWAL, J.

DATE : 17th OCTOBER, 2019

PC.

1. The applicant is seeking his release on bail in connection with C.R. No.150/2019 registered at Bhosari Police Station on 5.2.2019 under Sections 302, 307, 143, 147, 148, 149 of I.P.C., under Section 4 read with 25 of the Indian Arms Act and under Section 37(1)(3) read with 135 of the Maharashtra Police Act.

2. The applicant is arrested on 13.2.2019 and since then he is in custody. The investigation is over and the charge-sheet is filed.

3. The prosecution case pertains to murder of one Sunil Arade. The FIR is lodged by the first informant Aniket Chandane. He has stated in his FIR that on 4.2.2019 at about 10:00 p.m., he was called by his uncle Sunil Arade (the deceased). He told him that he had some altercation with one Ravi. Sunil called the informant there for help. Accordingly the informant along with his friends Kiran, Salman, Renold, Adjan Qureshi went to the house of Sunil. Sunil told them to proceed towards Dapodi. He himself went ahead on his two-wheeler. The informant and Salman started walking towards that direction. When he reached across the bridge, he saw that his uncle was encircled by the assailants. About 10 to 12 assailants came there with sickles and sticks. The informant tried to intervene. Renold and Salman tried to help him, but, all of them were assaulted and in particular the informant's uncle Sunil was assaulted. The informant and his uncle fell down at the spot in an injured condition. They were removed to Government Hospital and the informant's uncle Sunil succumbed to his injuries. It was his case in the FIR that the deceased had developed enmity with one Ravi Manjrekar who was indulging in gambling activities. Out of that rivalry, this incident had taken

place. The informant claimed that he was in a position to identify the assailants. On this basis, the FIR was lodged. The investigation was carried out and the applicant is arrested.

4. I have heard Shri. Yurvaj Narvankar, learned Counsel for the applicant and Shri S.H. Yadav, learned A.P.P. for the State.

5. Learned Counsel for the applicant submitted that the first informant has not named the applicant in his FIR. His supplementary statement came to be recorded on 15.4.2019 when for the first time the informant named the applicant and even then he has not attributed the main role to the applicant. He submitted that there are no other circumstances against the applicant and, therefore, he deserves to be released on bail.

6. Learned A.P.P. submitted that the first informant in his supplementary statement has clearly named the applicant. All the assailants had come together. Therefore, at this stage there is scope to believe that they shared common object and, therefore, the applicant should not be released on bail. At the same time, the learned A.P.P., on instructions, fairly submitted that the applicant was put in test identification parade, but, the informant had failed

to identify him as one of the assailants.

7. I have considered all these submissions. The deceased had suffered four injuries and the cause of death was mentioned as 'head injury'. There were two contused lacerated wounds on the forehead and one on occipital region. The third one was on the knee. The informant had suffered one stab injury over back and five CLWs on back, left hand, left foot, forehead and earlobe besides one abrasion on the shoulder.

8. The informant's case that more than 10 to 12 persons had assaulted the deceased does not appear to be true in the light of the fact that there were four injuries suffered by the deceased, out of which, three were on the head. Significantly, the first informant has not named the applicant in the FIR. But surprisingly he has specifically named the applicant in his supplementary statement recorded on 15.4.2019 i.e. after more than two months. Even in that statement, he has stated that Ravi Manjrekar had assaulted the deceased on his left foot with a sickle. Thereafter Rohit Manjrekar, Rajesh Manjrekar, Rushikesh Dhotre had assaulted the deceased with stones, sticks and cement blocks.

9. The applicant is attributed role along with others of assault mounted on Salman and Renold. However, their injury certificates are not included in the charge-sheet. Therefore, there is no corroboration to that part of his statement. He has not explained in his supplementary statement as to why the applicant's name did not feature in the FIR if he was knowing him by name.

10. Besides this, there is a statement of one Ranjit Gaikwad, who is the grand-father of the applicant. He has stated that he has seen the fight between the deceased and Ravi. He himself, present applicant, Ganesh Gaikwad, Monty Yadav and Sunny Khandagale tried to intervene in the fight to save the deceased. His statement shows that the fight was between the deceased and Ravi, the applicant had in fact tried to save the deceased. However this witness is grand-father of the applicant. The evidentiary value of his evidence will have to be tested during trial. At this stage, the charge-sheet contains the statements of these two main eye witnesses. Besides these two, the police have recorded the statements of Salman and Renold. They have simply stated that about 10 to 12 persons had caused the assault. They have not named anybody else except Ravi Manjrekar and Rushikesh Dhotre.

They have also not identified the applicant in the test identification parade. Hence, there is hardly any evidence against the present applicant except the supplementary statement of the first informant which appears to be doubtful. In this view of the matter, the applicant deserves to be released on bail. Hence, the following order :

ORDER

- (i) The applicant is directed to be released on bail in connection with C.R. No.150/2019 registered at Bhosari Police Station on his furnishing a P.R. 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.)