

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

CRIMINAL BAIL APPLICATION NO. 2028 OF 2019

Aniket Sham Pawar	...Applicant
V/s	
The State of Maharashtra	...Respondent

IN

CRIMINAL INTERIM APPLICATION NO. 1 OF 2019

Ashok Babu Gadhshi	...Intervener
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In the matter between

Aniket Sham Pawar	...Applicant
V/s	
The State of Maharashtra	...Respondent

WITH

CRIMINAL BAIL APPLICATION NO. 2497 OF 2019

Sagar Tanaji Darvatkar	...Applicant
V/s.	
The State of Maharashtra	...Respondent

Mr. Aniket Nikam i/b. Vivek N. Arote for the applicant in BA. 2028/2019.

Mr. Priyal Sarda i/b. Sachin T., Zalte for the applicant in BA. 2497/19.

Mr. S. H. Yadav APP for the State/Respondent in BA. 2028/2019.

Mr. H. J. Dedhia APP for the State/Respondent in BA. 2497/19.

Mr. Swapnil R. Chopade a/w. Vaibhav Dhainje a/w. Dheeraj Panchange for Intervener.

CORAM : PRAKASH D. NAIK, J.

DATE : 29th November 2019

PC :

1. The applicants in both the applications have preferred these applications to enlarge them on bail in C.R. No. 384 of 2018 dated 1st September, 2018, registered with Sinhagad Road Police Station, Pune for having committed the offences punishable under Sections 302, 201, 143, 144, 147, 148 and 149 of Indian Penal Code, 1860 ('IPC' for short).

2. The prosecution case in nutshell is that on 1st September, 2018 at about 1.30 a.m. the complainant heard that someone was calling Akshay Gadshi (son of complainant). The complainant and his family members looked out from the window and noticed that Nilesh Chougule, Sagar Darvatkar and three others were standing below the building of the complainant. Nilesh Chougule enquired about availability of Akshay at home. The complainant informed that Akshay is not at home. Nilesh Chougule was holding sword in his hand. At about 3.30 a.m. one Vishwas Kulkarni came to the complainants' house and informed that Police had arrived below the building and the complainant is called by them. Thereafter, the complainant went downstairs and saw his son Akshay lying on the road in the pool of blood with severe injuries. Hence,

First Information Report ('FIR' for short) was lodged. During the course of investigation, the statements of various witnesses were recorded and on completing the investigation charge-sheet was filed.

3. Learned counsel for the applicant appearing in Criminal Bail Application No. 2028 of 2019 submitted that, there is no evidence to justify his involvement in the crime. The case is based on circumstantial evidence. There is no witness to the incident. The applicant was not present below the building along with the other accused. The applicant is arrested on suspicion. The applicant is in custody from 1st September, 2018. No blood stain clothes were recovered at his instance. There is no evidence that the applicant was involved in commission of murder. There is no eye witness to the incident. The identification of the applicant is insignificant. The statement of the person to whom extra judicial confession was allegedly made was recorded belatedly. The C.A. report do not support the prosecution's case. The blood group of the blood found on the weapon is inconclusive. The co-accused has been granted bail by this Court.

4. The learned counsel appearing for the applicant in Bail Application No. 2497 of 2019 adopted the arguments advanced by the learned advocate appearing in other application. It is submitted that there is no recovery of any weapon from the said applicant. The C.A. report in respect to the blood on cloths of the accused is inconclusive. The statement referring to extra judicial confession was recorded twenty five days after the incident. The case is based on circumstantial evidence. The co-accused with similar allegation has been granted bail by this Court.

5. Learned APP submitted that there is sufficient evidence against the applicant. Although, there is no eye witness to the incident, there are strong circumstances to show the involvement of the applicant in the crime. There is recovery of weapon from applicant Aniket Pawar. Although, the blood group was not detected. The C.A. report opines that the blood was human. The applicants were identified by the witnesses. The applicant Aniket Pawar had shown place where he burnt his clothes. The statement of complainant, Amruta Gadshshi (sister of deceased) and other witnesses show the involvement of the applicants. The statement of witness Makrand Medane

refers to extra judicial confession of accused.

6. I have perused the documents on record, the incident had occurred on 1st September, 2018. The deceased was not in the house. At about 1.30 a.m. some person had called Akshay (deceased). The complainant and his daughter noticed that accused Nilesh Chougule, Sagar Darvatkar (Applicants) and three unknown persons were standing below the building. Nilesh Chougule enquired whether Akshay is at home. Complainant told that he was not at home. At that time Nilesh Chougule was holding sword in his hand. Complainant's daughter Amruta Ghadshi was also present in the house and she had seen the said accused. Thereafter, at about 3.30 a.m. Akshay was found dead with severe injuries on his person.

7. The postmortem report shows that the deceased had sustained about twenty two injuries. The cause of death was hemorrhage and shock due to multiple chop injuries. Memorandum statement of Aniket Pawar (Applicant) was recorded and he pointed out the place where he burnt his cloths by using petrol from the motorcycle. Ash of burnt clothes was recovered. The statement of Namdev Pawar

refers to the fact that on 1st September, 2018 at about 3.00 a.m., his grand-son Aniket Pawar (Applicant) came along with three to four boys. He told him that there was quarrel at Manick Bagh. He changed his clothes. He took the match box and left the house. Subsequently, the witness learnt that there was murder of Akshay Ghadshi. Sickle is recovered from Aniket Pawar (applicant). There were blood stains on the said weapon. The statement of Amruta (daughter of the complainant) was recorded. She narrated the incident as stated by the complainant. She has named Nilesh Chougule and Sagar Darvatkar as the persons were standing below the building on 1st September, 2018 along with the three unknown persons. The statement of Kunal Paygude was recorded on 21st September, 2018. He has stated that Aniket Pawar (applicant) called him and told him to drop at Narayan Peth. He along with his friend Rukesh Bandal met Aniket Pawar who told him that there is some problem at his uncle's place and to drop him at Bhide Bridge, Deccan, Pune. On 1st September, 2018 at about 2.00 a.m. The said version is supported in the statement of Rukesh Bandal recorded on the same day. The statement of Makrand Medane mentioned that on 26th September, 2018, he saw Aniket Pawar, Nilesh Chougule, Sagar Darvatkar,

Mahesh Mankar and Vijay Adagale at about 1.00 a.m. in the night. He was sent to bring liquor. He purchased liquor bottles. He was told by Mahesh Mankar that, he should not bring anything, as they have murdered Akshay Ghadshi. He also received call from Sagar Darvatkar who told him that they have killed Akshay Ghadshi. The witness returned to the chowk. He saw Nilesh Chougule, Sagar Darvatkar (applicant), Mahesh Mankar and Vijay Adagale. The statement of Kamesh Medane was recorded on 26th September, 2018. He stated that on 1st September, 2018 at about 1.45 a.m. friends of Makrand namely Mahesh Mankar and Sagar Darvatkar came to his house. Mahesh Mankar enquired about Makrand Medane. They were given water for drinking, he noticed that there were blood on the face and cloths of Mahesh Mankar. They told him that they have killed Akshay Ghadshi. Deepak Mote in his statement referred to quarrel between Aniket Pawar and Akshay Ghadshi. Karan Jagtap had stated that on 1st September, 2019 at about 5.00 a.m. Sagar Darvatkar, Nilesh Chougule, Aniket Pawar, Vijay Adagale and Mahesh Mankar came to his house by Alto Car. Sagar Darvatkar told him that they have to go Baramati for some work and they need some rest. The identification parade was conducted. Sagar

Darvatkar was identified by the complainant and Amruta Ghadshi. Aniket Pawar is also identified by them. Their supplementary statements were recorded. Thus, there are several strong circumstances against these applicants, showing their involvement in the crime. There were about 22 injuries on the persons of the deceased. Although, C.A. report does not indicate the blood group, it is opined that blood was human. There is evidence in the form of extra judicial confession. There are circumstances indicating that the applicants were together. Statement of Prashant Kolambekar mentions that on 31st August, 2018 at about 10.00 p.m. Aniket Pawar and Nilesh Chougule met him. Akshay Ghadshi told Aniket that he would fix the flex. There were altercations between Aniket Pawar and Akshay Ghadshi. Aniket Pawar and Nilesh Chougule threatened him and he left. At about 1.30 a.m. Akshay Ghadshi was dropped by Jupiter Moped near his house. Co-accused Vijay Adagale has been granted bail by this Court. There is strong evidence against applicants. Although there were no eye witnesses about assault on deceased but there are strong circumstances to show the involvement of the applicants in the crime. No case for grant of bail is made out and applications are required to be rejected.

ORDER

- (i) Bail Application No. 2028 of 2019 and Bail Application No. 2497 of 2019, are rejected;
- (ii) Interim Application No. 1 of 2019 stands disposed of accordingly.

(PRAKASH D. NAIK, J.)