

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

CRIMINAL BAIL APPLICATION NO. 2869 OF 2019

Shaun Wilson Vera

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Rajendra J. Rathod a/w Ali Bubere, Advocate for the Applicant.

Mr. S. R. Agarkar, A.P.P. for the Respondent-State.

Mr. N.S. Raut, P.I. RAK Marg Police Station.

CORAM : SANDEEP. K. SHINDE, J.

DATE : 08th NOVEMBER 2019.

P.C.

1 Heard learned counsel for the applicant and learned A.P.P. for the Respondent - State.

2 Applicant is seeking to release on bail in Crime No.42 of 2019 registered with the RAK Marg Police Station, Mumbai for the alleged offences punishable under Sections 302, 323, 504, 141, 143, 147, 148, 149, 120(b) of Indian Penal Code, 1860.

3 On 18.02.2019, Kalpesh Vakda reported to the

police at 00:00:30 a.m., that Akshay Gajanand Chauhan @ Guru (deceased) was assaulted by Kasturba Raykar alias KK, Tejas Varekar, Ghotya and Siddhant Lad by inflicting knife blows. A supplementary statement of Kalpesh Vakda was recorded on 28.02.2019 wherein he stated that after Akshay fell down due to assault, the applicant came on the motorcycle with Mahesh and one Himanshu Panchal. Himanshu Panchal is accused no.7. In the supplementary statement, it is alleged that the applicant Mahesh and Himanshu Panchal inflicted kicks and fist blows to Akshay.

4 Learned counsel claims applicants' release on the bail on the ground of parity, inasmuch as Himanshu (accused no.7) has been released on the bail by the learned Sessions Court in Bail Application No. 1305 of 2019. He submits that the role allegedly attributed to the applicant is similar to the role attributed to Himanshu Panchal. He has taken me through the supplementary statement of Kalpesh and a statement of one Paresh Dalvi. The statement of Paresh Dalvi and a

supplementary statement of Kalpesh, *prima facie* shows that the applicant arrived on the spot after the incident was over.

5 The learned APP submits that the investigating officer has recovered CCTV footage, which shows that the accused was armed with the weapon. He submits the prosecution is awaiting for the report of CCTV footage. The learned APP has also pointed out that the learned Sessions Judge has declined to release the applicant on the parity vide order dated 01.10.2019. He has pointed out that the observations made by the learned Sessions Judge in Para no. 11 of the order dated 01.10.2019.

6 The first informant, ten days after the alleged incident in the supplementary statement attributed role to the applicant and accused no.7 of inflicting kick and fist blows to deceased after he fell down. Even otherwise, the order dated 22.07.2019 enlarging the co-accused Himanshu Panchal by the learned

Sessions Judge has not been challenged by the prosecution. The role attributed to Himanshu Panchal is similar to role, which has been attributed to the present applicant. In view of this fact, the application is entitled to be released on the bail and applicant is enlarged on the bail on the following conditions :

ORDER

(i) The applicant is directed to be enlarged on bail on executing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned police station twice on 15th and 1st day of every month, between 11:00 a.m. to 01:00 p.m., till the framing of charge. For this month, he shall report to the Investigating Officer to the Police Station on 25th November, 2019;

(iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant shall not reside within the jurisdiction of the R.A.K. Marg Police Station, Mumbai for a period of six months from the date of his release ;

(vi) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(vii) If there are two consecutive defaults either in attending the Police Station, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

10 The application is allowed in the aforesaid terms and is accordingly disposed of.

11 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

12 All concerned to act on the authenticated copy of this order.

(SANDEEP K. SHINDE, J.)