

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3152 OF 2019

Pradipkumar Rampadarath Yadav,
Age 24 years, Occ.Student, R/o.Flat No.607,
Vitthal Empire, Jadhavwadi, Chikhali, Pune.

Applicant

versus

The State of Maharashtra

Respondent

Mr.Yuvraj P. Narvankar for applicant.

Mr.H.J.Dedhia, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 18th December 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., and Section 4 and 25 of the Indian Arms Act and 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. It is alleged that on 4.2.2019 at about 10:00 p.m. the uncle of complainant called on phone of Anuradha Dhudil. He told him that he had some altercation with some persons. Complainant's uncle Sunil called him for talk. 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 they reached across the bridge, they saw that his uncle was encircled by the assailants. About 10 to 12 persons came there with sickle and sticks. The informant tried to intervene. Renold and Salman tried to help him, but, all of them were assaulted. Complainant's uncle was assaulted. The accused pelted stone. The informant and his uncle fell down at the spot in an injured condition. They were removed to Government Hospital. The informant's uncle Sunil succumbed to injuries. It is alleged that the deceased had developed enmity with Ravi Manjrikar for obstructing his road. Brothers of Ravi and his nephew had assaulted uncle of complainant.

4. Learned Counsel for the applicant submitted that the first informant has not named the applicant in FIR. His supplementary statement came to be recorded on 15.4.2019 when for the first time the informant named the applicant. It is stated that applicant had assaulted complainant with fist blows.

5. Learned A.P.P. submitted that the first informant in his supplementary statement has 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.

6. 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.

7. 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 Manjrikar had assaulted the deceased on his left foot with a sickle. Thereafter Rohit Manjrikar, Rajesh Manjrikar, Rushikesh Dhotre had assaulted the deceased with stones, sticks and cement blocks. The applicant is said to have assaulted by fist and kick blows to Salman and Reynold.

8. There is a statement of one Ranjit Gaikwad. 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. The charge-sheet contains the statements of two main eye witnesses. Besides these two, the police have recorded the statements of Salman and Reynold. They have simply stated that about 10 to 12 persons had

caused the assault. They have not named anybody except Ravi Manjrikar 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. The co-accused Gurudatta Jadhav who was attributed similar role has been granted bail by this Court vide order dated 17-10-2019 in Bail Application No.2381 of 2019. In this view of the matter, the applicant deserves to be released on bail.

9. Hence, the following order:

ORDER

- (i) Criminal Bail Application No.3152 of 2019 is allowed and disposed of;
- (ii) 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;
- (iii) The applicant shall not tamper with evidence and shall attend Trial Court proceedings regularly, unless exempted by the Trial Court for some reason.

(PRAKASH D. NAIK, J.)

MST