

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 BAIL APPLICATION NO.1197 OF 2020

KUNDAN SUNDAR @ LAXMAN KAMBLE
VERSUS
STATE OF MAHARASHTRA

.....
Advocate for Applicant : Ms. Sunita G. Sonawane
APP for Respondent-State : Mr. S. P. Deshmukh
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CORAM : V. K. JADHAV, J.
DATED : 15th DECEMBER, 2020

PER COURT:-

1. The applicant is seeking bail in connection with crime No. 167 of 2019 registered with Camp Police Station, Bhingar, Taluka and District Ahmednagar for the offences punishable under Sections 302, 307, 143, 147, 148, 149, 323, 504, 506 of IPC, Section 37(1)(3)/135 of the Maharashtra Police Act and Section 4/25 of the Arms Act. His application below Exhibit 30 in Sessions Case No. 196 of 2019 with similar prayer came to be rejected by the learned Additional Sessions Judge, Ahmednagar vide order dated 27.07.2020.

2. Learned counsel for the applicant submits that the investigation is over and the charge sheet has been submitted. The applicant is in jail in connection with the present crime since 23.2.2019. Learned counsel submits that though name of the applicant is mentioned in the F.I.R., however no specific role has been attributed to him. As per

the F.I.R., the allegations have been made mainly against co-accused Lakhan Sundar Kamble, Jigar Sundar Kamble and Dinesh Natha Suryawanshi. So far as the present applicant is concerned, it has been alleged that the present applicant alongwith co-accused Sundar Kamble and Kalpana Kamble abused deceased Vijay and extended beating to him with the help of fist and kick blows. Learned counsel submits that on the similar set of allegations as against the co-accused Sundar, this Court by order dated 5.12.2019 in bail application No. 1295 of 2019 released co-accused Sundar @ Laxman Dattu Kamble and thus the principle of parity stands attracted. There is no criminal history. The applicant may be released on bail.

3. Learned A.P.P. has strongly resisted the application on the ground that *prima facie* there is evidence about formation of unlawful assembly. It has been alleged in the complaint that on the day of incident itself the applicant and co-accused persons took deceased Vijay from his house and went towards Samaj Mandir of the village. Avinash is the injured eye witness. He has ascribed specific role to the present applicant. *Prima facie*, there is evidence about formation of unlawful assembly and in prosecution of the common object of the said assembly, the applicant and all co-accused persons assaulted the deceased with the help of deadly weapons. On 20.2.2019 i.e. two days prior to the incident, there was a quarrel between deceased Vijay and co-accused Lakhan Kamble in one marriage ceremony on

account of dance competition. Learned A.P.P. submits that *prima facie* there is strong evidence against the applicant. The applicant may not be released on bail.

4. On going through the allegations made in the complaint and on perusal of the charge sheet, though I find name of the applicant mentioned in the F.I.R., however, so far as the main incident is concerned, no specific role is attributed to the applicant in respect of the injuries caused to deceased Vijay with the help of deadly weapons. It appears that the said allegations about causing fatal injuries to deceased Vijay have been made against co-accused Lakhan, Jigar and Dinesh. So far as the present applicant is concerned, the injured eye witness Avinash has alleged that the applicant alongwith co-accused Sundar Kamble and Kalpana Kamble abused deceased Vijay and extended beating to him with the help of fist and kick blows. The said co-accused Sundar came to be released on bail by this Court (Coram: R. G. Avachat, J.) by order dated 05.12.2019 in bail application No. 1295 of 2019. The allegations as against co-accused Sundar are similar to that of the present applicant. Thus, the principle of parity stands attracted and the applicant is also entitled to be released on bail. There is no criminal history. Thus, by imposing certain conditions, I am inclined to grant bail to applicant. Hence the following order:-

O R D E R

- I. Application is hereby allowed.
- II. The applicant KUNDAN SUNDAR @ LAXMAN KAMBLE, in connection with crime No. 167 of 2019 registered with Camp Police Station, Bhingar, Taluka and District Ahmednagar for the offences punishable under Sections 302, 307, 143, 147, 148, 149, 323, 504, 506 of IPC, Section 37(1)(3)/135 of the Maharashtra Police Act and Section 4/25 of the Arms Act, be released on bail on furnishing personal bond of Rs.15,000/- with one surety of the like amount on following conditions:-
 - a) The applicant shall not tamper with the prosecution evidence in any manner.
- III. Application is disposed of.

(V. K. JADHAV, J.)

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