

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

CRIMINAL BAIL APPLICATION NO. 296 OF 2020

Appa @ Kishor Balu Dhavale ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. V. V. Purwant, Advocate for the Applicant.

Smt. Veera Shinde, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 17th February, 2020

PC :

1. The applicant is seeking bail in C.R. No. 254 of 2018 registered with Kurduwadi Police Station, Dist. Solapur for offences punishable under Sections 302, 504, 506, 143, 147, 148 & 427 r/w Sections 149 & 120(B) of Indian Penal Code and Section 4 r/w Section 25 of the Indian Arms Act.

2. The First Information Report (for short 'FIR') is lodged by one Santosh Mane on 17th June, 2018 in respect of the incident of the same date which had taken place around 1 O'clock in the afternoon. The incident was in respect of the murder of the informant's relative Vicky Gaikwad. He has stated in FIR that, Vicky was on bail in connection with a case. He was directed to give attendance to

Kurduwadi Police Station on every Sunday, Tuesday and Friday. On 17th June, 2018 Vicky had given attendance to Kurduwadi Police Station and thereafter, had gone to meet his relative Jayashree Mane. At that time, the first informant and one Ashish Rajput met him. They were going towards Solapur along with their friends. On the way, they saw about 20 to 22 persons talking to each other near the house of one Manik Shrirame. About 10 persons were named who were having conversation along with 10 to 12 unknown persons. The first informant, Vicky, Ashish Rajput and others started going towards Solapur in their car. While they had crossed the toll plaza, suddenly 10 to 12 motorcyclists intercepted their car. The first informant had named accused Vinod Sonawane, Manik Shrirame, Suraj Jagtap, Anand Sonawane, Subhash Jagtap and Akash Rajge with weapons like sickles, swords and other sharp weapons. The informant has alleged that, above persons were accompanied by 10 to 12 other persons. They attacked the car. Vicky tried to ran away from there. He was chased by all the accused. He was assaulted with sharp weapons and stones. He fell down on the spot. The informant and others could not intervene because the accused were more in numbers and were carrying deadly weapons. After committing Vicky's murder the accused left the spot on their motorcycle. While going, they threatened the first informant and other witnesses.

3. During investigation, statements of eye witnesses were recorded under Section 161 & Section 164 of Cr.P.C. Supplementary statements of some of the witnesses were also recorded. The accused were arrested and from some of the accused recovery of weapons and other incriminating articles was effected.

4. Learned counsel for the applicant submitted that there is no cogent evidence against the applicant. The applicant is not named in the FIR. However, in the supplementary statement recorded subsequently, the name of the applicant is reflected. The eye witnesses Ashish Rajput, Rajat Dhaije, Varun Dhaije has not implicated applicant as participant in the crime. Statement of Rajat Dhaije recorded under Section 164 of Cr.P.C. in which also the applicant has not been named as assailants. The co-accused Vishal Baban Shinde, Sagar Kapure and Faruk Khan were granted bail by order dated 5th August, 2019. Other accused Balu Gaikwad, Mahadev Gaikwad and Karan Walmiki were granted bail by this Court vide order dated 10th January, 2020. There are no criminal antecedents against the applicant.

5. Learned APP submitted that the offence is of serious nature. The victim was assaulted. The applicant has been named in the supplementary statement of the complainant.

6. On perusal of the charge-sheet it is crystal clear that the first informant has not named the applicant in the FIR. The assailants were named. There is reference of unknown persons. However, in the supplementary statement of the complainant which was recorded on 21st August, 2018 he referred to name of the applicant. The statement of the complainant was however recorded under Section 164 of Cr.P.C. in which there is no reference to involvement of applicant. Similarly, the statement of other witnesses Ashish Rajput, Rajat Dhaije, Varun Dhaije. There is no reference to his involvement. Even in the statement of witnesses Sangita who speaks about the conspiracy, the applicant has not been named. The statement of Rajat Dhaije was recorded under Section 164 of Cr.P.C. He do not refer to participation of the applicant. The co-accused on the similar ground were granted bail by this Court vide order dated 5th August, 2019 passed in Bail Application No. 958 of 2019 as well as on 10th January, 2020 in Bail Application No. 3033 of 2019 and 2901 of 2019. In view of the aforesaid circumstances, case for grant of bail is made out.

7. Hence, I pass the following order :

ORDER

- i) Bail Application No. 296 of 2020 is allowed;
- ii) The applicant is directed to be released on bail in

connection with C.R. No. 254 of 2018 registered with Kurduwadi Police Station, Dist. Solapur on furnishing P. R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;

- iii) The applicant shall report concerned police station once in a month on every first Saturday between 10.00 am. to 12.00 pm. till further order.
- iv) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)