

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1976 OF 2019**

Dilip Kisan Bhosale

...Applicant
(Org. Accused No. 2)

Versus

The State of Maharashtra

...Respondent

.....
Mr. Yadav P. R., Advocate for the Applicant.
Mr. H. J. Dedhia, APP for the Respondent – State.
.....

CORAM : PRAKASH D. NAIK, J.

DATE : 10th February, 2020.

PC :

1. This is an application for bail in connection with C.R. No. 96 of 2019, registered with Vita Police Station, Sangli for offences under Sections 302, 324, 323, 504, 108, 114, 120(B) of Indian Penal Code, 1860 ('IPC' for short). The First Information Report ('FIR' for short) was lodged on 16th February, 2019. The applicant was arrested on the same day.

2. The brief facts of the prosecution's case are that, on 7th February, 2019 at about 12 noon, the complainant was proceeding towards his agricultural field, at that time girl name Siya Ramesh Disle came across and she told him that she likes him whether he would make friendship with her. Since the proposal was sudden, the

complainant refused to accept the same. On 9th February, 2019 at about, 12.30 p.m. Siya Disle again approached complainant and reiterated her proposal. The complainant again refused to accept the proposal. He went to his field. On 10th February, 2019, Adinath Dilip Bhosale took phone number of the complainant. On 11th February, 2019, at about 4.00 to 5.00 p.m., Adinath gave call to the applicant and questioned him as to why he had proposed Siya Disle and told her to make friendship with him. The complainant told him that he had requested Siya Disle to make friendship with him but she has declined and hence he has closed the topic. On 13th February, 2019, complainant called his friend Akash Bhagat and enquired with him whether he knows Adinath Dilip Bhosale. He gave phone number of Adinath to Akash. Akash Bhagat called complainant and had talk with him and Adinath on conference facility. At that time, Adinath threatened complainant and Akash. On 15th February, 2019 at about 7.00 p.m. while the complainant was at Bhud village, Adinath called him on his cellphone and told him to meet at Jadhavwadi since he has some work with him. Complainant told about the said fact to Adinath and requested Akash to accompany him. The complainant went towards the main road proceeding to Jadhavwadi. Akash Bhagat and his friends Vipul Jadhav, Sagar Bhagat, Rohit Bhagat also came at that place. Akash called Adinath and told him that he has

come to meet him along with complainant. He gave his whereabouts. At about 7.45 p.m. all of them went to Hanuman Chowk. Adinath Bhosale, his father Dilip Bhosale (applicant) and their brother Ajay Bhosale came there and introduced themselves to the complainant and others. Complainant told Adinath not to threaten him as he has closed the topic of Siya Disle. Thereafter complainant and Adinath started quarreling. Father of Adinath Dilip Bhosale (applicant) intervened and abused the complainant and others. He told Adinath not to spare them and stab them. Adinath Bhosale removed the knife hidden by him on his person and give a blow on Vipul Vikas Jadhav. He evaded the blow however, the blow was given on left ribs and he fell down. Ajay Bhosale caught hold of Akash. Adinath removed knife and gave two to three blows by knife on the chest of Akash. All three of them assaulted them with fist and kick blows. The injured were taken to the hospital for treatment. Akash was declared dead.

3. Investigation proceeded. Supplementary statement of the complainant was recorded on 18th February, 2019. His statement was also recorded under Section 164 of Criminal Procedure Code('Cr.PC' for short). Statement of Vipul Jadhav was recorded under Section 164 of Cr.PC. His statement was also recorded under Section 161 of Cr.PC. Statement of Sagar Bhagat was recorded on 18th February, 2019. Statement of Rohit Bhagat was also recorded on

the same day. The complainant, Vipul and Sagar are the eye witnesses to the incident. On completing investigation, charge-sheet is filed.

4. The applicant preferred application for bail before the Court of Sessions, which has been rejected by order dated 24th June, 2019.

5. Learned counsel for the applicant submitted that the applicant has been falsely implicated in this case. There is delay in lodging FIR. The applicant is not attributed role of assaulting the victim. The dispute was between the complainant and the co-accused Adinath. Applicant has been implicated because he is father of Adinath. The role of assault is attributed to co-accused. The applicant has allegedly instigated the co-accused to assault the victim. The applicant being father of the co-accused, had tried to intervene to resolve the dispute. It is falsely alleged that he had instigated the co-accused to assault the victim. The statement of independent witnesses were not recorded. The applicant is in custody from date of arrest. There are contradictions in the statement of witnesses. The complainant and others came in large number.

6. Leaned APP submitted that the role of the applicant is clear from the statement of the complainant and the witnesses.

There are eye witnesses to the incident. The applicant was present at the place of incident. The applicant had instigated the co-accused, who assaulted the deceased by giving blows of knife. The co-accused Adinath was carrying knife with him. It was a per-planned attack as the co-accused Adinath, applicant and the other accused came together and during the quarrel assaulted the deceased.

7. I have perused the documents on record. The FIR was lodged on 16th February, 2019. The complainant is the eye witness to the incident. There was dispute between the complainant and Adinath Bhosale. The applicant is father of Adinath Bhosale. The accused Adinath had called the complainant. The complainant went with his friends. There was a verble altercation between the complainant and Adinath. At that time, the applicant told Adinath as to who are these persons to confront him and he should stab them. On instigation, the son of the applicant assaulted the Vipul Jadhav and Akash. The other son of the applicant, Ajay Bhosale caught hold of Akash and Adinath gave two to three blows on the chest of Akash. It is apparent that, the applicant, and his sons came together. The co-accused was carrying knife with him. The applicant instigated the victim that he should not spare and instigated his son to stab the opponent. In pursuant to that, the two persons were assaulted by the co-accused. It was a per-planned attack. Thus, although, the

applicant was not instrumental in assaulting the deceased or the injured person, he was the person, who came along with the co-accused with a plan to assault the opponents with co-accused who was carrying knife with him. Considering the circumstances, no case for grant of bail is made out and application deserves to be rejected.

7. Hence, I pass the following order:

ORDER

- i) Bail Application No. 1976 of 2019, is rejected.

(PRAKASH D. NAIK, J.)