

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

BAIL APPLICATION NO.2679 OF 2019

Rohit Pravin Parkhe

.. Applicant

Vs.

State of Maharashtra

.. Respondent

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Mr. Aniket Nikam i/b. Mr. Vivek N. Arote, Advocate for the Applicant.

Mr. S. H. Yadav, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : 11th FEBRUARY, 2020.

P.C. :

This is an application for bail in connection with C.R.No.35 of 2019, registered with Upnagar Police Station, Nashik, for the offences punishable under Sections 302, 307, 143, 147, 148, 149, 323, 324 and 120-B of Indian Penal Code (“IPC”, for short). Under Section 135 of Maharashtra Police Act and under Section 4 (25) of Arms Act. The applicant was arrested on 28th January, 2019.

2 First Information Report (“FIR”, for short) was lodged by Avinash Vishnu Wagh on 28th January, 2019. It is

alleged that on 27th January, 2019, the marriage rituals of his cousin sister were being performed at Champanagari, Jail Road, Nashik. The complainant was present at the ceremony along with his family. At about 9:30 p.m., Rohit Parkhe (applicant) and his associates were fighting amongst each other near garden gate. At that time the cousin of the complainant Lakhan Gaikwad, Aditya Gaikwad and others told them not to fight as the ceremony is in progress. They were told to leave the place. After the ceremony was over, at about 10:30 p.m. Rohit Parkhe (applicant) Karan Kedare, Vishal Jadhav, Sonu Gaikwad, Bala Kedare, Lalit Wagale, Mayur Gaikwad, Sagar Gangurde, Samadhan Aavhad, Amit Waghmare, Ashish Waghmare and others came to the same spot on motorcycle. They again started fighting. Cousin of informant Rohit Wagh intervened. Rohit Parkhe (applicant), Karan Kedare, Vishal Jadhav and others assaulted Rohit Wagh, Ritesh Pandav and Alkesh Raju John. On hearing the shouts, the complainant and his cousin Lakhan Gaikwad went to the spot. At that time Rohit Parkhe (applicant) and Karan Kedare were armed with sickle and both of them assaulted Rohit Wagh on his chest. Ritesh Pandav was assaulted on his hand and head. The accused threw bricks at complainant and others. The injured Rohit Wagh and Ritesh Pandav were taken to Jairam Hospital, Nashik Road.

During the treatment Rohit Wagh succumbed to the injuries.

3 During the course of investigation, statements of eye-witnesses were recorded. On completion of investigation, charge - sheet was filed. The applicant preferred application for bail before the Sessions Court. The said application was rejected.

4 Learned advocate for the applicant submitted that the applicant has been falsely implicated in this case. Several persons were implicated as accused. There are contradictions in the statements of the eye-witnesses. The contradictory version of the witnesses creates doubt about the involvement of the applicant. There is contradictory version of the witnesses with regards to the role attributed to the applicant. Although, the complainant has alleged that the applicant had assaulted the deceased Rohit Wagh. The other witnesses have given contradictory version. Avinash Wagh in his statement under Section 164 of Cr.P.C. has stated that Karan Kedare has assaulted Rohit Wagh on chest and Ritesh Pandav was assaulted by Ashish Waghmare and the applicant. The injured Ritesh Pandav has stated that the applicant has assaulted him by sickle alongwith Karan Kedare. Alkesh John has not named the assailants. In his statement under Section 164

of Cr.P.C. he stated that Karan assaulted Rohit Wagh and the applicant assaulted Ritesh. Ritesh had sustained injuries and he is out of danger and has been discharged from the hospital. The applicant is in custody from 28th January, 2019. Further detention of the applicant is not necessary.

5 Learned APP submitted that there is substantial evidence showing the involvement of the applicant. There is consistent evidence disclosing that the applicant was present at the scene of offence and participated in the incident of assault. The complainant has attributed him role of assaulting Rohit Wagh by sickle. Rohit Wagh was declared dead. The applicant was armed with dangerous weapon like sickle. Considering the role attributed to the applicant, no bail should be granted to the applicant.

6 The incident had occurred on 27th January, 2019. The applicant and others were fighting amongst them. They were told not to fight, as Haldi ceremony was being performed near the place of incident. They were made to leave the place. However, the applicant and other accused returned at same place at about 10:30 p.m. They again started fighting. At that time, Rohit Wagh

(deceased) had intervened. The complainant has stated that Rohit Pramod Wagh was assaulted by applicant and others by sickle with a blow on his chest. Ritesh Pandav and Alkesh John, were also assaulted. The co-accused Karan Kedare also assaulted Rohit Wagh by sickle on his chest. Advance cause of death certificate of Rohit Pramod Wagh, mentions that the cause of death is haemorrhagic shock due to stab injury to chest and abdomen, which is sufficient to cause death in ordinary course of nature. The injuries are ante-mortem in nature. Injury to head and face are caused by blunt trauma. Stab injury is caused by pointed single edged sharp weapon. Postmortem report also assigns the same opinion as to the probable cause of death. The deceased had sustained abrasion on left forehead above eyebrow, abrasion on left temple above left eyebrow, stab wound of 11 c.m. x 1.5 c.m. x 17 c.m. over front of right side of chest. Avinash Wagh, however, stated that Rohit Wagh was assaulted by the accused with fist and kick blows. Thereafter, Karan Kedare assaulted Rohit Wagh on his chest by sickle and Ritesh Pandav was assaulted by Ashish Waghmare and applicant on his head and hand, by sickle. It is pertinent to note that the role attributed by the complainant to the accused is supported by the medical evidence. Ritesh Pandav has stated that at about 10:30 p.m., he

was informed that about 10 to 15 persons are assaulting Rohit Wagh. Hence, he proceeded to the place of incident. Rohit Parkhe (applicant), Ashish Waghmare and Karan Kedare were armed with blood stained sickle. Rohit Wagh had fallen down and he was bleeding from his chest. Rohit Wagh and Alkesh John were assaulted by Rohit Parkhe (applicant), Ashish Waghmare, Karan Kedare, Amit Waghmare and others by fist and kick blows. Applicant had assaulted him by sickle. His statement was also recorded under Section 164 of Cr.P.C. He has given similar version. The statement of Alkesh John and other witnesses were also recorded. Presence of the applicant is established. The contention of the learned counsel for the applicant is that there were contradictions in the statements of the witnesses under Sections 161 and 164 of Cr.P.C. and the witnesses have contradicted themselves in attributing overtact to the applicant. It is pertinent to note that the applicant was present in the first incident as well as in the second incident. In the second incident, he was armed with sickle. The complainant has attributed role of assault to the applicant. He had assaulted the deceased as well as Ritesh Pandav. The deceased had sustained serious injuries. Sickle has been recovered at the instance of the applicant. Assuming that there are some contradictions, the applicant has

been attributed the role of assaulting Rohit Wagh (deceased) as well as Ritesh Pandav (injured). The offence is of serious nature. The applicant and the co-accused had returned to the place of incident with weapons like sickle. Considering the nature of crime, the role attributed to the applicant, the statements of eye-witnesses, nature of injuries sustained by the deceased and the injured person, no case for grant of bail is made out.

6 Hence, I pass the following order:

:: O R D E R ::

- (i) Bail Application No.2679 of 2019, is rejected and stands disposed of accordingly.

(PRAKASH D. NAIK, J.)