

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

CRIMINAL BAIL APPLICATION NO. 3502 OF 2019

Shankar Sheshrao Bawne

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. Aniket Nikam i/b Mr. Vivek N. Arote, Advocate for the Applicant.
Mr. S. S. Pednekar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 5th MARCH, 2020

PC :

1. The applicant is seeking bail in C.R. No. 376 of 2019 registered with Sahakar Nagar Police Station, Pune, for offences punishable under Section 302, 324, 323, 504 r/w Section 34 of Indian Penal Code. The applicant was arrested on 23rd June, 2019.

2. The case of the prosecution in nutshell is that on 21st June, 2019 at about 10.30 p.m. the complainant along with his friend Sudhir Mangale and Ramdas Shilimkar were chitchatting in front of his office. The applicant, Dnyaneshwar Wankhede & Sulil Wankhede came there. Without any reason the co-accused came there. The accused abused and assaulted Ramdas Shilimkar with fist and kicks. While the complainant tried to pacify accused, Dnyaneshwar Wankhede assaulted Ramdas with knife on his arm, abdomen &

chest. The victim fell down he was again assaulted by fist/kick blows. He succumbed to the injuries. The applicant and the co-accused were arrested. Statement of witnesses were recorded. Investigation completed and charge-sheet is filed.

3. The applicant preferred an application for bail before the Sessions Court which has been rejected by order dated 22nd October, 2019.

4. Learned advocate for the applicant submitted that there are no criminal antecedents against the applicant. The applicant was attributed role of assaulting the deceased by fist and kick blows. There is no intention of applicant to commit murder of deceased. There is no motive for the applicant to kill the deceased. The incident had occurred suddenly. There is nothing to infer that the applicant had knowledge that the co-accused had intended to kill victim. The witnesses has however changed their version in the statement under Section 164 of Cr.P.C. It is stated that the applicant caught hold of the deceased along with co-accused and the main accused assaulted him by knife.

5. Learned APP submitted that there is evidence against the applicant showing his involvement in the crime. The deceased was assaulted with knife by the co-accused. All of them shared common intention. The co-accused Dnyaneshwar Wankhede gave blow by

knife on the person of the deceased. The applicant had assaulted the deceased by fist and kick blows. Even after he fell down applicant and other accused assaulted the deceased by fist and kick blows. The statement under Section 164 Cr.P.C. has to be given importance in view of its sanctity.

6. It is not disputed that there are no criminal antecedents against the applicant. Undisputedly, the witnesses in their first statement recorded under Section 161 of Cr.P.C. have stated that the applicant had assaulted the deceased by fist and kick blows. However, subsequently in the statement recorded under Section 164 of Cr.P.C. on 6th July, 2019. They had changed their version. Statement of three witnesses under Section 164 of Cr.P.C. were recorded on same day. All of them have changed their version. The motive to kill the deceased is not spelt out. The applicant was not armed with weapon. The statement of Vikas Chavan (complainant) and Shivram Nanavare & Sudhir Mangale were recorded under Section 164 of Cr.P.C. on 6th July, 2019. The version in statement under Section 161 and 164 of Cr.P.C. is contradictory. The accused were known to witnesses but motive was not known. The incident began with assault by fist/kick blows. While the complainant and others intervened deceased was assaulted by knife by Dnyaneshwar Wankhede.

7. C.A. Report regarding blood stains on cloths is not yet received. The applicant has no criminal background. He is in custody from 23rd June, 2019. Hence, on stringent condition, bail can be granted to the applicant.

8. Hence, I pass the following order :

ORDER

- i) Bail Application No. 3502 of 2019 is allowed;
- ii) The applicant is directed to be released on bail in connection with C.R. No. 376 of 2019 registered with Sahakar Nagar Police Station, Pune, on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
- iv) The applicant shall stay out of jurisdiction of Sahakar Nagar Police Station, Pune till further order.
- v) The applicant shall furnish the details of his residence after he is released on bail to the Investigating Officer.
- vi) The applicant shall attend Trial Court regularly on the dates of hearing of the case unless exempted by the Court.
- vii) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)