

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

LDVC CRIMINAL BAIL APPLICATION NO. 256/2020

Mr. Kunal @ Pankaj S/o Sachin Raut

-VERSUS-

State of Maharashtra

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri M. N. Ali, Advocate for applicant.

Ms. M. A. Barabde, Additional Public Prosecutor for State.

CORAM : VINAY JOSHI, J.

DATE : JULY 20, 2020.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard.

3. The Police of Dhantoli Police Station have arrested applicant/accused in C. R. No. 245/2019 relating to offence punishable under Sections 302, 307, 147, 148, 149, 34 of the Indian Penal Code read with Sections 4 and 25 of the Arms Act. The applicant has approached for

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regular bail to the Court of Sessions, however learned Sessions Judge declined to grant bail vide order dated 20.01.2020 which has occasioned him to approach this Court for grant of bail.

4. The applicant/accused claimed bail on usual grounds along with the ground of parity by submitting that rest of the three co-accused were released on bail by the Sessions Court. Particularly, learned counsel for the applicant has harped on the grant of bail to co-accused Mangesh, by Sessions Court vide its order dated 28.11.2019. Besides that, the applicant/accused expressed his willingness to abide himself by conditions which may be imposed against him.

5. Learned Additional Public Prosecutor resisted to grant bail to applicant. It is submitted that it was a day light brutal murder wherein the applicant assaulted deceased by means of knife. It is submitted that the rule of parity is not available

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since the role of applicant is distinct than co-accused Mangesh. Moreover, learned Additional Public Prosecutor took me through the order dated 20.01.2020 by which the Sessions Court declined to grant bail to the applicant. In the said order, learned Sessions Judge has expressed that though co-accused Mangesh was released on bail the then Court has not considered the statement of two injured eye-witnesses namely Kapil and Shiva.

6. At the instance of the FIR lodged by one Pravin, the offence was came to be registered. It is alleged that on 08.07.2019 in the morning, there was quarrel between deceased Nitin with co-accused Mangesh since the former suspected that Mangesh is Police Informer. On the same day, around 03.00 p.m. all the assailants accosted the deceased and there was quarrel. In the said incident, they have assaulted deceased by means of axe, knife and iron pipe and also to the persons intervened.

7. Particularly, I have gone through the statement of two eye witnesses namely Kapil and Shiva. It has come in the statement of Kapil that at the relevant time applicant Kunal was holding knife by which he assaulted deceased Nitin. Moreover, Kapil stated that when he tried to intervene the applicant along with Nikent, caused him to fall and the applicant Kunal swung his knife towards him. Another injured Shiva similarly stated that applicant was holding knife by which he assaulted deceased Sonu. Particularly, he stated that when he intervened, the applicant Kunal assaulted on his face by means of knife.

8. Bare perusal of the Police paper discloses that the applicant not only assaulted deceased Sonu but also assaulted other eye-witnesses by means of knife. For this reason itself the role of the applicant appears to be different than Mangesh. Moreover, it emerges from police paper that at the time of occurrence, co-accused

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Mangesh ran into his own house and brought an axe. It is pertinent to note that applicant Kunal was already having knife which speaks otherwise. Since the role of applicant is distinct, the rule of parity would not apply. The offence is serious in nature. The applicant has used knife not only to eliminate Nitin but also tried to give same treatment to the persons who intervened. There are eye-witnesses to the incident whose presence is prima-facie affirmed by the injuries sustained by them. There is ample material against the applicant, hence considering grave role, applicant does not deserve for bail.

9. In view of the above, application stands rejected.

10. This order be communicated to the counsel appearing for the parties, either on the email address or on WhatsApp or by such other mode, as is permissible in law.

JUDGE

Gohane.

**Jitendra
Gohane**

Digitally signed
by Jitendra
Gohane
Date: 2020.07.21
16:15:49 +0530