

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

943 BAIL APPLICATION NO.269 OF 2021

RAVI RAMESH HADSE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. R.S. Deshmukh, Senior Counsel i/b Mr. D.R. Deshmukh,

Advocate for the applicant

Mr. S.B. Narwade, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 06th MAY, 2021.

ORDER :

1 Present applicant is the original accused No.2, who came to be arrested on 14.10.2020 by Bhagya Nagar Police Station, Nanded, in connection with Crime No.370/2020, for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. He has filed the present application under Section 439 of the Code of Criminal Procedure, 1973.

2 Heard learned Senior Counsel Mr. R.S. Deshmukh instructed by

learned Advocate Mr. D.R. Deshmukh for the applicant and learned APP Mr. S.B. Narwade for the respondent.

3 It has been vehemently submitted on behalf of the applicant that now the investigation is over and charge sheet has been filed, therefore, the further physical custody of the applicant is not required for the purpose of investigation. First Information Report has been lodged by one Dushant Daulat Jondhale in respect of death of his brother Siddharth Daulat Jondhale. Siddharth was auto rickshaw driver. He has stated that at about 6.00 a.m. on 12.10.2020 he, his mother and brother went to their respective work. They all returned at about 2.00 p.m. Around 4.00 p.m. he told his mother that a phone call is received from the employer where she was working, she should leave and then he also left the house. Informant received phone call around 6.30 p.m. from his brother Siddharth stating that one Atish Suresh Chavan and Ajay @ Banti Sanjay Lone were quarreling in an open space going towards Kalyan Nagar and then Siddharth called the informant at that place. When it was asked by informant, as to what is the reason for the quarrel, then he told that they have started dispute by raising a fact that why he had looked with anger towards them. Informant went along with his cousin at the said place. It was found by him that said Atish and Ajay were assaulting Siddharth. After the informant had separated them and informant was

taking Siddharth with him, when they had gone ahead about 10 meters, then present applicant slapped Siddharth. Again Siddharth looked towards the present applicant with anger and present applicant started saying that as to why he is looking with anger and then he started with giving slaps and fists. Suddenly Ajay took out knife, which was concealed near his waist, and stabbed it towards the left side of the chest. When he was about to give another blow, Siddharth ducked himself and it hit his chin. They were separated by the informant and Shubham Jondhale and Vijay Bagate, who were with him. Siddharth fell down. He has sustained bleeding injury to his chest. By arranging auto rickshaw he was taken to Samarpan Hospital, but he was not admitted, as it was reserved for Covid-19 patients. Then he was taken to Yashosai Hospital, Nanded. After examination he was asked to be taken to Government Hospital, Vishnupuri, Nanded. When he was taken there he was declared dead and then informant lodged the report.

4 After reading the entire story in the FIR the learned senior counsel submits that if we peruse the Postmortem Report, then the cause of death is stab injury. If we consider the statements of eye witnesses, they are also saying that they are also attributing role of giving slaps and fist blows to the present applicant. Present applicant cannot be said to be the author of the homicidal death of Siddharth. Though at present it may appear that he

was along with the assailants, it would take long time of the trial to stand and, therefore, the applicant be released on bail.

5 Per contra, the learned APP strongly opposed the application and submitted that as per the contents of the FIR and the statements of eye witnesses, who had accompanied the informant; they say that the dispute was resolved and Siddharth was being taken by the informant along with him away from that place. It was because of the slap given by the present applicant the incident triggered. He had no reason to slap the deceased after the dispute was resolved. This shows the intention on the part of the present applicant with the assailant and, therefore, his act is definitely covered under Section 34 of the Indian Penal Code, which has to be led along with Section 302 of the Indian Penal Code against Ajay. There is ample evidence against the present applicant and, therefore, no leniency be shown to him.

6 Already the contents of the FIR have been reflected earlier, therefore, they are not repeated. Investigation is complete and charge sheet is filed, therefore, we are required to consider as to what evidence has been gathered against the present applicant. No doubt, in the FIR it is stated that the dispute was resolved by the informant and he was taking his brother Siddharth away from that place. Thereafter, the applicant surfaced and it is

stated that he had slapped deceased, who again looked at him with anger. At the outset, it is to be noted from the FIR itself that prior to the said slap given by the applicant his presence was never stated by the informant. He has stated that when he went to the spot along with his cousin Shubhan Jondhale he found that Siddharth was being assaulted by Atish and Ajay. He has not stated that even prior to his arrival applicant was present and he was also assaulting Siddharth. Then after initial slapping Siddharth and he looking towards Ravi i.e. present applicant with anger, it is stated that present applicant had again started giving slaps and fists by saying, as to why he is looking with anger. And then Ajay suddenly took out knife from his waist and stabbed Siddharth. Question of knowledge of concealment of knife by Ajay in his waist to the present applicant is also involved. If we want to consider the case or role under Section 34 of the Indian Penal Code, prosecution will have to prove this fact. The eye witnesses are also saying the same thing in their statements under Section 161 of the Code of Criminal Procedure. No doubt, death is homicidal and appears to have been caused by big knife, which was then discovered by Ajay under Section 27 of the Indian Evidence Act. Taking into consideration the role attributed to the present applicant, he deserves to be released on bail. He has fixed place of abode. Further it is not pointed out that there is no any criminal antecedent against him. It appears that he would be available for the trial as it would progress

but it would take long time to stand his trial and, therefore, these points are considered to grant bail to him. Hence, following order.

ORDER

1 Application stands allowed.

2 Applicant Ravi Ramesh Hadse, who has been arrested on 14.10.2020 by Bhagya Nagar Police Station, Nanded, in connection with Crime No.370/2020, for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, be released on P.R. of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand only) each.

3 The applicant shall not tamper with the evidence of the prosecution, in any manner.

4 He shall not indulge in any criminal activity.

5 Bail before Trial Court.

(Smt. Vibha Kankanwadi, J.)