

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

935 BAIL APPLICATION NO.681 OF 2021

KIRAN ASHOK HATKAR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Shri Sudhakar T. Mahajan
APP for Respondent-State : Shri S.P.Sonpawale

...
CORAM : M.G.SEWLIKAR, J.

DATE: 18th August, 2021

PER COURT:-

1. By this application under Section 439 of the Code of Criminal Procedure, applicant is seeking bail.
2. First Information Report (FIR) came to be lodged by the informant who is the brother of the deceased Mukesh. It is alleged in the FIR that fight started on account of parking of the motorcycle in the parking space. Applicant and other accused started beating the informant. Informant was beseeching them not to beat him but the applicant and others continued to beat him. Therefore, he called his brother deceased Mukesh. Deceased Mukesh tried to intervene but he was beaten by the applicant and others. Applicant took out a knife from his pocket and stabbed deceased Mukesh in the chest. Deceased Mukesh

fell down. Applicant started running. Informant chased him and caught him but applicant inflicted injury by knife on the neck of the informant because of which the grip got loosened and the applicant ran away from the spot. There were 10 to 15 persons from the side of the applicant and from the side of the informant there were only 2 or 3 persons i.e. applicant and the deceased. Deceased was shifted to the hospital where he was declared as dead. Post mortem was carried out. On the basis of these allegations, Crime No.224 of 2019 came to be registered with Ramananad Nagar Police Station, Jalgaon under Sections 302, 307, 323, 143, 147, 148, 149 and 504 of the Indian Penal Code, under Sections 37(1)(3) read with 135 of Bombay Police Act and under Sections 4 and 25 of the Arms Act.

3. Heard Shri S.T.Mahajan, learned counsel for the applicant and Shri S.P.Sonpawale, learned APP for the respondent-State.

4. Shri Mahajan, learned counsel for the applicant submitted that incident had taken place on a flimsy ground. He submitted that only chopper is recovered from the applicant. According to him, this chopper was recovered from the well. Other accused have been released on bail. He submitted that the learned trial Court, while deciding one of the applications for bail, observed

that complainant party was aggressor and therefore, released those applicants on bail. He submits that the same benefit ought to have been given to the applicant also. He submits that for all these reasons, applicant deserves to be released on bail.

5. Shri Sonpawale, learned APP for the respondent-State supported the order of the learned Sessions Judge.

6. On perusal of the papers and copy of the charge-sheet filed, it appears that quarrel started on the ground of parking the vehicle. FIR and other papers indicate that the applicant had assaulted deceased by means of a knife. From the evidence collected by the prosecution, it can be seen that the applicant was possessing chopper. Chopper has been recovered at his instance.

7. So far as identification parade is concerned, Shri Mahajan, learned counsel for the applicant submitted that identification parade cannot be believed as same persons were used as dummy persons for identification of the applicant and other accused by the informant.

8. It is worth noting that the informant had the opportunity to

closely see the applicant. The applicant was chased by the informant. He caught hold of him. Prior to that there was altercation between the applicant and the informant. Even otherwise, these are the things to be appreciated during the trial. In view of this, I am not inclined to release the applicant on bail. Hence, the order:

ORDER

- i) Application is rejected.
- ii) Learned trial Court shall expedite the trial and shall dispose it of within a period of one year.

**(M.G.SEWLIKAR)
JUDGE**

SPT