

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 851 OF 2021

Akshay Subhash Shinde

Applicant

Versus

The State of Maharashtra

Respondent

Mr. Z.H. Farooqui, Advocate holding for Mr. N.V. Gaware, Advocate for the applicant.

Mr. P.G Borade, APP for respondent/State.

CORAM : M.G. SEWLIKAR, J.

DATE : 27th October, 2021.

PER COURT :

1. Heard.

2. It is alleged in the First Information report that the deceased had a grocery shop by the name of Sai Shraddha Kirana and General Stores. On 14th November, 2020, at 11.00 pm, informant had demanded goods on credit from Ajay Bhange, Vishal Patil and Ravindra Bansode. On that count, these three persons had damaged the shop of the deceased by pelting stones. Therefore, NC No. 343/2020 under Sections 323, 504, 506, 427 of the Indian Penal Code came to be registered against them.

3. It is further alleged that on 18th November, 2020, at 4.00 pm, Ajay Bhange, Ravi Bansode and Sameer Shaikh, while proceeding on motorcycle, threatened the deceased that they would eliminate the deceased.

4. It is further alleged that on 19th November, 2020, at 10.30 pm, the deceased and informant were present in the shop of the deceased. Applicant along with other accused i.e. Ajay Bhange, Ajju Pathan, Vishal Patil, Sameer Shaikh, Ravindra Bansode and Kunal Jagtap abused the deceased. The deceased was held by Vishal Patil, Ravindra Bansode, Sunil Lokhande, applicant, Mahesh Gaikwad and Sameer Shaikh and accused Ajay Bhange assaulted the deceased by sharp knife on his neck. The deceased died during treatment. First Information Report came to be lodged on the basis of which offence under Sections 302, 120B, 143, 147, 148, 149, 504, 506 of the Indian Penal Code came to be registered against applicant and the other accused.

5. Shri Farooqui, learned counsel for the applicant submits that applicant has no role to play in the alleged offence. Prior to the incident in question, two incidents had taken place. Applicant was

nowhere involved in those two incidents. He submits that applicant is falsely implicated in the offence. His role is to hold the deceased along with other five accused. He submits that it is humanly impossible for six people to hold one person. This itself shows the falsity in the prosecution case.

6. Learned APP Shri Borade opposed the application on the ground that the offence is serious in nature and the applicant had made the deceased defenceless and facilitated commission of the offence.

7. Prior to the incident in question, two incidents had happened. The first incident was of 14th November, 2020. In that incident, accused Ajay, Vishal and Ravindra had participated. Applicant was not the one who had taken goods on credit from the informant or from the deceased. Therefore, applicant had no axe to grind against the deceased. Similarly, in the incident dated 18th November, 2020, the applicant did not participate. For the first time, the name of the applicant cropped up in the incident in question. From the contents of the First Information Report and the fact that applicant had no grudge against the deceased or the informant, false

implication cannot be ruled out. Applicant has no criminal antecedents. This is his first offence. He will be available for trial. In view of this, I am inclined to release the applicant on bail. Hence the following order :-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs.15,000/- (Rs. Fifteen Thousand) with one solvent surety in the like amount in connection with Crime No. 748/2020 registered with Shirdi Police Station, Ahmednagar for the offence punishable under Sections 302, 120B, 143, 147, 148, 149, 504, 506 of the Indian Penal Code.
- iii) Application is disposed of.
- iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

(M. G. SEWLIKAR)
Judge