

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

CRIMINAL BAIL APPLICATION NO. 62 OF 2021

Sandeep Vasant Chavan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Rajaram Bansode, for the Applicant
Ms. Anamika Malhotra, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.

DATE : 27th September, 2021

P. C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 114 of 2020 registered with the Mhaswad Police Station, Satara, for the alleged offence punishable under Section 302 of the Indian Penal Code.
3. Learned counsel for the applicant submits that the allegations as against the applicant are false and baseless. He submits that the police have failed to record the statements of the

actual alleged eye-witnesses, who even according to them were present on the spot i.e. in particular, the statement of Drupadabai i.e. mother of the deceased. He further submits that the statements of the two alleged child eye witnesses are in variance with the statements of the applicant's father and the neighbour. He submits that the knife allegedly used in the commission of the offence was recovered from the agricultural field i.e. from an open place. Learned Counsel further submits that the applicant is 24 years old and that his family is dependent on him.

4. Learned APP opposes the application. She submits that the statements of the two child witnesses, the father of the applicant as well as the neighbour, are all consistent. She submits that out of the said four witnesses, deceased's two children have seen the incident and have stated what was seen by them, and that the said two child witnesses cannot be disbelieved. She further submits that the possibility of the applicant tampering with the witnesses and in particular the two child witnesses, cannot be ruled out.

5. Perused the papers. The complainant- Swapnil Laxman Chavan is the son of the deceased from his first wife. He has stated that on 19th May 2020, he received a call at 7.25 a.m., informing him that his father had expired. He has stated that after receiving the said information, he went to village- Karandewadi and saw his father lying outside the house with deep cut wounds over his neck/throat and blood oozing from the said wounds. He has further stated that he was informed by his grandmother- Draupadabai that when they were sitting outside the house on the previous night, a quarrel took place between the deceased -Laxman Chavan and the applicant on account of money. He has stated that he learnt that his uncle- Vasant (applicant's father) being handicapped, was sleeping in the house; that the quarrel continued for quite sometime; and that in a fit of anger, the applicant went inside the house and brought a knife (used to cut mutton) and assaulted Laxman on his neck and ran away from the spot. Accordingly, an F.I.R. was lodged as against the applicant alleging the aforesaid offences. During the course of investigation, statements of witnesses were recorded. Deceased Laxman's two

children from the second wife, who had seen the incident of assault, are aged 6 years and 8 years. They have stated what transpired on the previous night i.e. quarrel between the applicant and their father; that the applicant sent his mother – Baidabai, home; after which the quarrel again started between the applicant and their father. The child witnesses have stated that thereafter, the applicant went inside the house and brought a sura used for cutting mutton, sat on their father's chest and assaulted him. They have stated that the applicant assaulted their father 3 to 4 times with the said sura and thereafter, ran away from the said place. Statements of both these child witnesses are consistent with each other.

6. As far as the applicant's father- Vasant Chavan, is concerned, he being handicapped, was sleeping inside the house. He has stated that he heard a quarrel between his son i.e. the applicant and Laxman(deceased). He has stated that the quarrel was going on for quite sometime. He has further stated that he was informed later that at about 3.00 a.m. that the applicant had

assaulted Laxman with a knife. Statement of the neighbour-Ganesh Karande shows that he had left his house at about 10.20 p.m. to go to the agricultural field. He has stated about the quarrel which was going on at around 9.00 p.m. in the applicant's house. The said witness came back at 2.00 a.m. and went to sleep and in the morning, he learnt about the demise of Laxman Chavan. The two children of the deceased are eye witnesses to the incident of assault. They have stated the manner in which the applicant assaulted the deceased with a sura used for cutting mutton. The post mortem report shows that the deceased had sustained several injuries on his person. The cause of death is said to be 'due to hypovolumic shock due to injuries to large vessels due to stab injuries.' If the applicant is enlarged on bail, the possibility of the applicant threatening the child witnesses cannot be ruled out.

7. Considering the aforesaid and the manner in which the applicant had committed the murder of the deceased, this is not a fit case to enlarge the applicant on bail. Accordingly, the application is rejected.

8. Having regard to the age of the child witnesses i.e. 6 and 8 years, trial of the applicant is expedited, lest the children forget the incident, due to passage of time. The learned Trial Judge to examine the said two child witnesses at the earliest.

9. It is made clear that the observations made herein, are prima facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.