

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

CRIMINAL BAIL APPLICATION NO. 188 OF 2021

1. Atikraman Mujesh Kale
2. Sachin @ Sachya Bhosale Applicants

Versus

The State of Maharashtra Respondent

Mr. Shreyas P. Barsawade for Applicants.
Mr. S. H. Yadav, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 16th FEBRUARY, 2021

P.C. :

1. The Applicants are seeking their release on bail in connection with C.R.No.214 of 2020, registered with Koregaon police station, under sections 302, 143, 147, 148 r/w. 149 of the Indian Penal Code (for short 'IPC'). The applicants were arrested on 05/07/2020 and since then they are in custody.

2. Heard Shri. Shreyas Barsawade, learned counsel for the applicants and Shri. Yadav, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by father of the deceased. The deceased was one Vijya. Informant's name is Kajya Kale. The informant is an eye witness. He has stated that, on 05/07/2020, at about 11:30a.m., about 8 to 9 persons who are named in the F.I.R. came towards the informant and his son Vijya. They questioned Vijya. They were angry with him because according to them he was a police informer. There are allegations that, all of them started assaulting him with sticks, kicks and fist blows. It is mentioned in the F.I.R. that the applicant No.1 held the hands of the deceased and accused Ashok stabbed him on his left thigh. The informant's son rescued himself and started running, but because of bleeding injury he fell down on the ground. All the accused ran away from the spot. The informant told the Sarpanch about the incident and then the deceased was removed to the hospital, but he was declared dead at the time of admission. Thereafter the F.I.R. was lodged, investigation was carried out and the applicant was arrested. During the investigation, statements of various witnesses were recorded. The statements of eye witnesses were recorded under section 164 of

Cr.p.c.

4. Learned counsel for the applicant submitted that the postmortem notes show that there is only one stab injury. It is not consistent with the story of the eye witnesses. He submitted that the evidence of all the witnesses does not appear to be true.

5. Learned APP opposed this application on the ground that the statements of the eye witnesses sufficiently bring out the material against the present applicant. It is a case of direct evidence.

6. I have considered these submissions. The statements of eye witnesses are consistent with the story in the F.I.R. The postmortem notes show that, there was only one incised wound over left thigh of the deceased and cause of the death was 'due to hypovolemic shock with stab injury'. There was no other injury on the deceased. This itself shows that the version in the F.I.R. appears to be exaggerated, as far as, others who were carrying

sticks and were attributed role of causing assault by kicks and fist blows; are concerned. Therefore, at present, the allegations appear to be rather exaggerated. Apart from that, the applicant No.1 is given role of holding the deceased when other accused Ashok had inflicted stab injury on the thigh of the deceased. Significantly, the blow was not given on a vital part. There was only one stab injury and that too was on the thigh. It was only because main artery was cut, the deceased suffered heavy bleeding causing his death. Therefore, at this stage, it is difficult to observe that either of the applicants had shared common object of causing death of the deceased. The offence, if at all, may be a much lesser offence. The applicants are already in custody since July 2020. The investigation is over. They are very young, aged 19 years. Therefore, I am inclined to grant bail to these applicants. The observations made in this order are restricted to passing of this order in this application only. The trial court shall not be influenced by any of the observations made in this order..

7. Hence, the following order :

ORDER

- (i) In connection with C.R.No.214 of 2020, registered with Koregaon police station, the applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)