

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

CRIMINAL BAIL APPLICATION NO.880 OF 2020

1. Padmajeet Dilip Kamble	
2. Dilip Yallappa Kamble	
3. Rohit Mohan Kamble	...Applicants
Versus	
State of Maharashtra	...Respondent

Mr. Satyavrat Joshi, for the Applicants.

Mr. H. J. Dedhia, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 16th SEPTEMBER, 2021

(THROUGH VIDEO CONFERENCING)

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicants seek their enlargement on bail in connection with C.R. No. 194 of 2019 registered with the Gandhinagar Police Station, Kolhapur, for the alleged offences punishable under Sections 302, 506 and 34 of the Indian Penal Code.
3. Learned Counsel for the applicants submits that the allegations essentially are as against co-accused – Pankaj Kamble, who is alleged to have stabbed the deceased - Rushikesh in his chest and abdomen, several

times. He submits that as far as applicant No.1 – Padmajeet Kamble is concerned, he is alleged to have thrown a brick at the deceased, resulting in a head injury; and, as far as, applicant No.2 - Dilip Yallappa Kamble and applicant No.3 - Rohit Mohan Kamble are concerned, they are only alleged to have stopped the villagers from intervening in the quarrel, by threatening them. He submits that none of the applicants have antecedents.

4. Learned APP opposes the application.

5. Perused the papers. According to the complainant – Vinayak Kamble (brother of the deceased – Rushikesh) in May 2019 an incident of theft had taken place. He has stated that in the marriage of applicant No.1 - Padmajeet, there was an incident of theft and that the applicant No.1 – Padmajeet and all the accused were suspecting that Rushikesh Kamble (deceased) had committed theft. However, according to Rushikesh, he had not committed any theft. According to the complainant, applicant No.1 – Padmajeet and others were angry with Rushikesh, as they suspected that Rushikesh had committed theft. The complainant has alleged that on 1st September 2019, applicant No.3 – Rohit had visited their house, when, Rushikesh disclosed to him, that Pankaj and Padmajeet, were suspecting that he had stolen certain articles in the wedding and were threatening to

kill him and that he should speak to them. The complainant has further alleged that on 2nd September 2019, externment notice was served on Rushikesh, however, as Rushikesh was not at home, the said notice was received by him; that at about 8:30 p.m. when Rushikesh came home, he informed him about the said notice, pursuant to which, Rushikesh took the said notice and disclosed that he would go and reside at Kagal. According to the complainant, thereafter, he went out with his friends and that at about 10:00 p.m., he received a call from his mother who informed him that Rushikesh had received serious grievous injuries and that he should come home immediately. Pursuant thereto, the complainant went home and learnt that Rushikesh was taken to the C.P.R. Hospital, at Kolhapur. Accordingly, the complainant went to the C.P.R. Hospital, Kolhapur. When the complainant went to the hospital, he learnt that Rushikesh was assaulted on his abdomen and chest with a knife and that Rushikesh had also received a injury on his head and was unconscious. At about 11:50 p.m., Rushikesh succumbed to his injuries. According to the complainant, he learnt that there were eye-witnesses to the said incident of assault and that he learnt from the two eye-witnesses i.e. Prabuddha Bale and Siddharth Kamble that the applicants and Pankaj were responsible for the assault on Rushikesh. According to the complainant, he learnt from the said two eye-witnesses that Pankaj Kamble had stabbed his brother Rushikesh in his abdomen

and chest with a knife; that applicant No.1 - Padmajeet had assaulted his brother Rushikesh with a brick on his head and that applicant No.2 - Dilip Kamble and applicant No.3 - Rohit Kamble had threatened the villagers/ persons who tried to intervene in the said quarrel. The statement of the eye-witnesses are more or less consistent. From the statement of the eye-witnesses, it appears that Pankaj Kamble had pulled out a knife from his pocket during the quarrel that ensued between him and deceased - Rushikesh and stabbed Rushikesh in his abdomen and chest; and that applicant No.1 had picked up a brick and thrown it, on Rushikesh's head. As far as applicant Nos.2 and 3 are concerned, they are alleged to have held Rushikesh when he was being assaulted. Applicant Nos.2 and 3 are also alleged to have held stones and are stated to have threatened to kill the witnesses, if they attempted to intervene. The postmortem report shows that deceased - Rushikesh had sustained as many as 10 injuries i.e. 8 stab injuries on his abdomen and chest and 1 injury over his right eyebrow. The cause of death is stated to be 'Hemorrhagic shock due to multiple stab injuries'. As far as applicant No.1 is concerned, he is alleged to have assaulted deceased - Rushikesh with a brick on his head. There is a corresponding injury, which is seen in the postmortem report. The applicant Nos.2 and 3 are alleged to have held Rushikesh during the assault and are alleged to have been armed with stones. They are also

alleged to have threatened the witnesses from intervening in the said quarrel. It appears from the aforesaid that the applicant Nos.2 and 3 facilitated the assault by holding him. If the applicants are released on bail, the possibility of the applicants threatening the witnesses cannot be ruled out.

6. Considering the aforesaid, this is not a fit case to enlarge the applicants on bail.

7. Accordingly, the application for bail is rejected.

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8. 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.

REVATI MOHITE DERE, J.