

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

CRIMINAL BAIL APPLICATION NO. 19 OF 2021

Mustak Nasir Patel

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Sumant Deshpande for Applicant.

Mr. Mohammad Mulla, for complainant.

Mr. S. H. Yadav, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th JUNE, 2021

(Through Video Conferencing)

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 614 of 2020 registered at Vijapur Naka police station, Dist. Solapur, under section 302 of the Indian Penal Code (for short 'IPC') and under section 135 of Maharashtra Police Act. The applicant was arrested on 12/06/2020 and since then he is in custody. The investigation is over and the charge-sheet is already filed.

2. Heard Shri. Sumant Deshpande, learned counsel for the applicant and Shri. Yadav, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') was lodged by one Alimoddin Patel. He has stated that the applicant was having ill intention towards the informant's wife. The informant's family had scolded the applicant. In 2019 the applicant had given a complaint against the informant and his brother Shakil at MIDC police station. The informant and Shakil were arrested. Since then there was even more bad blood between the applicant and informant's family. The informant's brother Shakil was angry with the applicant because applicant had involved Shakil's son in false cases. On 12/06/2020, at about 10:45a.m. Shakil questioned the applicant about this false implication. The applicant gave blows with knife on Shakil who succumbed to his injuries and, therefore, this F.I.R. was lodged. The first informant was not an eye witness but there were other eye witnesses to the incident. The applicant was arrested as mentioned earlier.

4. Learned counsel for the applicant submitted that the eye witnesses do not speak about presence of each other. He

submitted that, there is a statement of witness Mohsin Shaikh who has stated that the deceased was left to another spot by this witness. Therefore, incident could not have taken place as described by the eye witnesses. He submitted that, because of enmity the applicant is falsely implicated.

5. Learned APP opposed this application. He submitted that, there are three eye witnesses and witness Shaharukh Phufa has spoken about extra judicial confession made by the applicant himself.

6. I have considered these submissions. There are three eye witnesses whose statements are included in the charge-sheet. They are Aatik Sabunagar, Peerahamad Qureshi and Sallauddin Mangeri. They have consistently stated that, on that day and time, there was quarrel between the applicant and Shakil Patel. The applicant removed a knife which he had kept near his waist and gave repeated blows on Shakil and thereafter he ran away from the spot. Their statements are consistent. The provisional cause of death is "Shock and hemorrhage due to stab injury to chest and abdomen". This is also consistent with the version of eye

witnesses. Besides this, statement of Shaharukh Phufa, as pointed out by learned APP, mentions that the applicant had accepted his guilt before this witness when this witness had dropped the applicant near MIDC police station. Thus, there is sufficient material against the present applicant. The offence is serious. No case for grant of bail is made out.

7. The application is rejected.

(SARANG V. KOTWAL, J.)