

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

CRIMINAL BAIL APPLICATION NO. 161 OF 2021

Nandakishor Yashwant Karangutkar Applicant

Versus

The State of Maharashtra Respondent

Mr. Ganesh Bhujbal, for the applicant.

Smt. J.S. Lohokare, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.

DATE :23rd MARCH, 2021

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. 142 of 2020 of registered at Deogad Police Station, Sindhudurga under sections 302, 397,120(B) read with Section 34 of the Indian Penal Code. The applicant was arrested on 05/08/2020 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Mr. Ganesh Bhujbal, learned counsel for the applicant and Smt. J.S. Lohokare, learned APP for the State.

3. The prosecution case is in respect of commission of murder of one Mohan Kadam. There are allegations that the accused No. 1 Sanjay Tarkar had taken some amount from the deceased and accused No. 1 Sanjay was not returning that money. The applicant had also taken some money and the applicant was also not returning that money to the deceased. The accused No. 2 wanted to open a beer shop but because of deceased's intervention he was not able to start his business. Therefore, all these three accused were holding grudge against the deceased. In the night between 3/8/2020 and 4/8/2020, the accused took the deceased in a jungle near Bavankhand Panhal, where the accused assaulted the deceased with sharp weapons on his head. They had used big knife and an axe. The allegations are that the applicant had used a knife.

4. Learned Counsel for the applicant submitted that there is only one eye witness in this case and that witness was not mentally fit to give any statement. He submitted that the motive against the present applicant is not strong enough. According to

him, the statement of sole eye witness is recorded under section 161 of Cr.P.C. and thereafter again his statement was recorded under section 164 of Cr.P.C. and there were discrepancies between these two statements.

5. Learned APP opposed this application. She submitted that the statement of eye witness was sufficient to show involvement of the present applicant.

6. I have considered these submissions. With the assistance of learned Counsel, I have perused the entire charge-sheet. The deceased had suffered as many as 17 injuries all over his body. They were caused by sharp weapons. The cause of death was mentioned as “ death due to cardiorespiratory failure with haemorrhagic and neurogenic shock associated with multiple injuries on head and both upper limbs caused by sharp edged weapon.”

7. The most important circumstance against the present

applicant is the statement of sole eye witness Raju Chandrakant Yadav. He has stated that on 03/08/2020 in the evening he had seen entire incident right from the time when the deceased and accused no. 1 and one more person were quarreling with each other. The deceased was assaulted on his hands and head with knife. This witness has categorically stated that when this assault was going on, the applicant came there from bushes and he also assaulted the deceased with his weapon. Thereafter the accused had gone to a small stream and had washed their hands. This witness was threatened and he therefore had run away from the spot. This statement was recorded on 05/08/2020. Therefore this statement was recorded within a short time of the date of the incident.

8. His statement under section 164 of Cr.P.C. was recorded on 25/8/2020 and in that statement he had stated that he had seen that the accused including the present applicant were washing their hands in a small stream. The accused were having big sharp weapons in their hands.

9. Thus both of these statements show clear involvement of the present applicant. There is nothing in the charge-sheet to show that this witness was unable to understand what he was stating before the police. In this view of the matter, there is direct evidence against the present applicant. It is supported by the medical evidence and therefore no case for bail is made out.

10. The application is rejected.

(SARANG V. KOTWAL, J.)