

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

BAIL APPLICATION NO.228 OF 2021

Sahabaz @ Raja Ruwab Khan

.. Applicant

Versus

State of Maharashtra

.. Respondent

.....
Mr.Satish Adsule, Advocate for the Applicant.

Mrs.M.R. Tidke, APP for the Respondent – State.

PSI Shriram Bhosale, Kasturba Marg Police Station, Mumbai,
present.

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CORAM : PRAKASH D. NAIK, J.

DATED : APRIL 7th, 2021.

P.C. :

This is an application for bail in connection with C.R.No.171 of 2019, registered with Vikhroli Police Station, Mumbai, for the offences punishable under Section 302 of Indian Penal Code and Section 37(1)A, 135 of Maharashtra Police Act. The applicant was arrested on 2nd April, 2019.

2 The case of the prosecution is that the FIR was lodged on 2nd April, 2019, by the brother of the deceased. It is alleged that on 2nd April, 2019, information was received by the complainant that his brother Gufran is being assaulted and taken

to Rajawadi Hospital for treatment. The complainant then proceeded to hospital. Gufran was found in an injured condition. He was declared dead. Complainant was informed by the police that the wife of the employer of the deceased had informed that the applicant had assaulted the deceased with a knife on his neck. During the course of investigation, statements of various persons were recorded. On completing investigation, charge - sheet is filed.

3 Learned advocate for the applicant submitted that the applicant is in custody for two years. Investigation is completed and the charge - sheet is filed. There is no eye witness to the incident. The case is based on hearsay evidence. The statement of the employer of the applicant and his wife are based on hearsay evidence. The case relates to single blow. The applicant has sustained injuries on his person which is spelt out from the injury certificate. There is every possibility that applicant had exercised his right of private defence as he had sustained injuries. The alleged quarrel between the applicant and the deceased had occurred one month prior to the incident. There is no reason for the applicant to commit murder. There are several discrepancies in the evidence of witnesses, which create doubt about the case of the prosecution.

4 Learned APP submitted that there is substantial evidence against the applicant. There are statements of the witnesses showing the complicity of the applicant in the crime. Blood stained cloths and knife is recovered from the applicant. Postmortem report supports the prosecution case.

5 I have perused the charge - sheet. Statements of witnesses disclose the involvement of the applicant in the crime. The victim had called wife of the employer. Her statement has been recorded. The victim had disclosed that the applicant had stabbed him with knife. Similar statement was made by employer Jarar Sharif whose statement was also recorded on 4th April, 2019. Statement of the witnesses recorded during the investigation shows that applicant and victim were together. There is recovery of knife and blood stained clothes from the applicant. There are strong circumstances to show the involvement of the applicant. Merely on account of the injuries on the hands of the applicant, prosecution case cannot be doubted. No case for grant of bail is made out. Application is rejected and disposed of accordingly.

(PRAKASH D. NAIK, J.)