

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 364 OF 2021**

Adarsh Ramesh Mohite	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Satyavrat Joshi, for the Applicant.

Mr. Ameet A. Palkar, APP, for the State-Respondent.

CORAM : V. G. BISHT, J.

**RESERVED ON : 4th December, 2021.
PRONOUNCED ON : 14th December, 2021.**

PC:-

. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in C.R. No. 308 of 2018 registered with Vishram Baug Police Station, District-Sangali for the offences punishable under Sections 302, 143, 144, 147, 148, 149, 323, 506, 120-B of the Indian Penal Code and Section 4, 25 of the Indian Arms Act and Section 135 of Maharashtra Police Act.

2 It is the case of prosecution that on 21/08/2018 on account of enmity, the applicant and other accused assaulted the brother of

informant, namely, Ganesh Malage by means of scythe, fist and kick blows and thus killed him.

3 Mr.Joshi, learned Counsel for the applicant, at the outset submits that accused, namely, Prashant Sanjay Gawali and Ganesh Pargonda Hattikar have already been released on bail by learned trial Court inasmuch as the role attributed to them and as also the applicant is similar. In such circumstances, the applicant also deserves to be enlarged on bail. Learned Counsel also invited my attention to the statements of witnesses in order to show that the applicant along with the accused, who are on bail, had beaten the deceased by fist and kick blows. Investigation is over. Charge-sheet has been filed. There are no criminal antecedents. In such circumstances, applicant deserves to be enlarged on bail.

4 Mr. Palkar, learned APP, on the other hand, also invited my attention to the statements of witnesses and submits that the applicant along with other accused had caught hold of deceased whereupon other accused assaulted him by means of sickle and caused his death. Since the role attributed to the applicant is different, question of parity does not arise.

5 Perused the investigation papers and also the Postmortem Report.

6 From the Postmortem Report it is seen that the cause of death was “head injury in case of physical assault”. Thus the cause of death was the head injury.

7 The statement of Omkar Sunil Patil shows that the deceased was assaulted by means of sickle by accused Dananjay Gawali and Sachin Gawali. As far as role attributed to the present applicant is concerned, he along with Pankaj Waghmare, Prashant Gawali, Ganesh Hattikar, Rahul and other 5-6 persons had beaten the deceased by means of fist and kick blows. Similar is the statement of Prathamesh Shankar Kadam.

8 From the above statements, it is clear that the role attributed to the present applicant is that he had assaulted the deceased along with others by means of fist and kick blows. Accused Prashant Gawali and Ganesh Hattikar had also been alleged to have assaulted the deceased by fist and kick blows. Thus, their roles and the role of applicant are identical. Both the said accused, namely, Prashant Gawali and Ganesh Hattikar have been enlarged on bail on that ground by the learned Sessions Court. I also do not see any reason to not to grant bail to the

applicant when he is also similar situated.

9 Having regard to the material on record, the applicant has made out a case for bail. Hence, the following order.

ORDER

(i) Applicant- Adarsh Ramesh Mohite shall be released on bail in C.R. No. 308 of 2018 registered with Vishram Baug Police Station, District-Sangali on his executing P .R. bond in the sum of Rs. 25,000/- with one or more sureties in like amount.

(ii) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

(iii) The applicant shall not tamper with the prosecution evidence and shall attend the trial regularly.

(iv) The observations made herein-above are prima-facie in its nature for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.

(v) Bail before the trial Court.

(vi) The application is allowed in the aforesaid terms and stands disposed of accordingly.

REKHA
PRAKASH
PATIL

Digitally signed
by REKHA
PRAKASH PATIL
Date: 2021.12.14
14:15:44 +0530

(V. G. BISHT, J.)