

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

CRIMINAL BAIL APPLICATION NO. 380 OF 2021

Karan Kumar Jadhav

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Aniket Nikam i/b. Piyush R. Toshnival for Applicant.
Ms. P. N. Dabholkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 04th MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 161 of 2020 registered with Chakan police station, Pune, on 17/02/2020, under sections 302, 143, 147 r/w. 149 of the Indian Penal Code (for short 'IPC') and under section 135 of Maharashtra Police Act. The applicant was arrested on 08/05/2020 and since then he is in custody.

2. The prosecution case, in short, is that, on 17/02/2020 on some petty issue one Harishchandra Dete was assaulted by 7

accused. They assaulted him with kicks and fist blows. The applicant was one amongst them.

3. The First Information Report (for short 'F.I.R.') is lodged by one Pramod Kolhe. He has stated that the deceased was his uncle. The deceased had started a workshop at Biradwadi. The workshop was used to make automobile parts. They had 8 employees in the workshop. One Rani was one of the workers. On 17/02/2020, at about 9.30a.m. the deceased, the informant and others were working on machines. At 10:00a.m. Rani and her husband Jivan came there. They were quarreling with each other. Rani came inside the workshop. She told the deceased that she was not able to attend the duty on that day. Her husband Jivan followed her. There was some quarrel between the deceased and Jivan. There was some altercation and the deceased slapped him. Jivan was under influence of liquor. He threatened the deceased and then he went away. In the afternoon, at 3:00p.m. Jivan turned up with 5 to 6 persons. They started assaulting deceased with kicks and fist blows. It is alleged that, Jivan picked up a stone and gave a blow on the head of the deceased. One more person also picked

up a stone and gave a blow on the head of the deceased. The other workers came for his help. The assailants went away. The injured Harishchandra was removed to the hospital, but he was declared dead before admission. On this basis the F.I.R. was lodged.

4. Heard Shri. Aniket Nikam, learned counsel for the applicant and Ms. Pallavi Dabholkar, learned APP for the State.

5. Shri. Nikam submitted that, there is absolutely no evidence against the present applicant which could be termed as incriminating. He submitted that the F.I.R. itself shows that the assailants were unknown. Similar to the first informant there are other eye witnesses who have named Jivan as one of the assailants. All of them have stated that, Jivan was accompanied by others. His associates were not named in their first statements. The statements of the informant and eye witnesses were recorded on 17/02/2020. After two days i.e. on 19/02/2020 their supplementary statements were recorded and surprisingly names of all the assailants including the present applicant were mentioned. The prosecution case is that the other person who had assaulted the deceased with stone on his head was the present

applicant. Shri. Nikam submitted that, there is no connecting link between the first statements and supplementary statements of these witnesses. No test identification parade is held. There is no recovery and there is no other circumstance against the present applicant.

6. Learned APP relied on the charge-sheet filed in this case including the supplementary statements of all the eye witnesses to contend that the applicant's name and role is mentioned in the charge-sheet.

7. I have considered these submissions. The postmortem notes show that the deceased had died because of 'shock due to head injury'. There were two external injuries noticed on the dead body; one was contusion on parietal region and other was again on the parietal region. Both injuries were 6 cm. in length.

8. Thus, at this stage, assault on the deceased by Jivan and his associates cannot be doubted. Jivan is specifically named right from the beginning consistently by all the eye witnesses including the first informant. As far as, present applicant is concerned, besides the statement of first informant, there are other

eye witnesses namely Munnidevi, Nisha, Chandan, Sachin and Vinay. All of them had described the incident of assault but they have identically stated that Jivan and his unknown associates had assaulted the deceased. These statements were recorded on 17/02/2020. Subsequently, within 2 days their supplementary statements were recorded on 19/02/2020. This time all the eye witnesses including the first informant have stated names of all the associates. A specific role is attributed to the applicant that, he had also assaulted the deceased with stone on his head. At that time, the applicant was mentioned as Karan. The informant in his another supplementary statement which is recorded on 09/05/2020 after the applicant's arrest on 08/05/2020 mentions applicant's full name. How his name had transpired and how this witness came to know his name is kept vague. There is absolutely no connecting piece of evidence between first and supplementary statements of all these witnesses. The test identification parade is not held. There is no recovery at the instance of the present applicant. Sufficient doubt is created against the prosecution case, as far as, the present applicant is concerned.

9. Hence, the following order :

ORDER

- (i) In connection with C.R.No. 161 of 2020 registered with Chakan police station, Pune, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)