

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

CRIMINAL BAIL APPLICATION NO. 417 OF 2021

Sanjusingh Punjabsingh Kalyani	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Sachin S. Thombare a/w Mr. Rohan Hogle, for the applicant.
Mr. H.J. Dedhia, APP for the State/Respondent.

**CORAM :SARANG V. KOTWAL, J.
DATE : 12th MARCH, 2021**

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. 801 of 2019 registered at Hadpsar Police Station, on 15/08/2019, under sections 302, 120-B, 143,144,147,148,149,506(2) of the Indian Penal Code, Section 3 and 4 read with Section 25 of the Indian Arms Act, Section 3 and 7 of the Criminal Law Amendment Act and Section 37, 135 of the Maharashtra Police Act. The applicant was arrested on 15/8/2019 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Mr. Sachin Thombare, learned counsel for the applicant and Mr. H.J. Dedhia, learned APP for the State.

3. The prosecution case is reflected in the FIR lodged by one Rajendra Gunjal on 14/8/2019. He has stated that on 20/7/2019, the present applicant was beating one boy in the informant's area. That time informant's brother Mayur had intervened and there was some quarrel between Mayur and the applicant. At that time, co-accused Tejab Singh @ Tejas Kalyani had threatened Mayur.

4. On 12/08/2019, at about 9.00 p.m. again Tejab Singh was quarreling with another boy in the area. Again there was quarrel between Tejab Singh and Mayur. On 13/08/2019, at about 6.30 p.m., the informant, his brother Mayur and his friends were chit chatting in their area. Accused came in a four wheeler. The applicant was one of them. Other accused were Tejab Singh, Omshri Bhandari and Rohit Singh Kalyani. They started quarreling with Mayur regarding previous day's quarrel and they started

beating Mayur. At that time, one Panchayya Swami who was resident of the area came there. He tried to pacify the accused. At that time, Tejab Singh told him not to intervene and if he intervened, he would be assaulted as well. Even then Panchayya Swami tried to intervene. Tejab Singh removed a pistol and fired at Pachayya Swami. He got injured and then Mayur as well as accused left the place. Pachayya Swami was taken to a hospital for treatment but he succumbed to his injuries and therefore this FIR is lodged.

5. Learned Counsel for the applicant submitted that bare reading of FIR shows that the applicant had not taken part in causing injury to the deceased. The applicant was quarreling with Mayur and no harm was caused to the deceased by him. It was not the applicant's intention and he certainly did not share any common object or intention with others while the co-accused Tejab Singh fired at Pachayya Swami. He submitted that no offence is committed by the applicant and he deserves to be released on bail.

6. Learned APP however, fairly pointed out that the co-accused Rohit Singh Kalyani who is similar placed is released on bail. He left the matter to the discretion of the Court.

7. I have considered these submissions. The post mortem notes show that deceased Pachayya Swami had suffered one contusion over left leg and one firearm wound entry was seen over left thigh which was the cause of death.

8. Besides the first informant, there are other two eye witnesses namely Manoj Gunjal and Nikhil Khare. They have also given the same narration as that of the first informant. From the narration of incident given by the eye witnesses, it can be seen that the common object of all the accused was to assault Mayur. Tejab Singh had brought a fire arm but Mayur was not fired at, no injury was caused to Mayur. Instead, Panchayya Swami who had no connection with their quarrel, tried to intervene. Tejab Singh unnecessarily fired at him. There is nothing to show that the applicant had taken any part in either threatening the deceased or

assaulting him. The applicant's role is similar to that of Rohitsingh Kalyani who is granted bail by this Court (Croam:- Smt. Bharati Dangre, J.) vide order dated 21/10/2020 passed in Criminal Bail Application (St.) No. 2497 of 2020. Therefore, on the grounds of parity also the applicant deserves to be released on bail. Rohitsingh is alleged to have given a blow with sickle on Mayur. Therefore the applicant's case is based on similar footing as that of Rohitsingh. In this view of the matter, the applicant can be granted bail.

9. Hence the following order.

ORDER

- (i) In connection with C.R. No. 801 of 2019 registered with Hadpsar 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) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)