

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

CRIMINAL BAIL APPLICATION NO. 620 OF 2021

Vishal @ Kotya Sanjay Shinde ...Applicant
VS.
The State of Maharashtra ...Respondent

Mr.Ghanashyam Jadhav i/b. Biju Aloor for Applicant.
Smt.A.A. Takalkar, APP for the State.
Mr.Banvaraj Mali, PSI, Chaturshringi Police Station.

CORAM : BHARATI DANGRE, J.

DATED : 3 SEPTEMBER 2021

P.C. :

1 The Applicant is charge-sheeted in C.R.No.776/2019 which invoke Sections 302, 324, 323, 504,506(ii), 143, 144, 147, 148, 149 of IPC and Section 37(1) read with 135 of Maharashtra Police Act along with Section 4(25) of Indian Arms Act. The matter is already committed to the Sessions Court vide Sessions Case No.165/2020. The application filed by the Applicant seeking to release on bail came to be rejected by the Sessions Court on two occasions, which constrained him to approach this court. T

2 The investigating machinery was set into motion on a complaint filed by one Ramprabhu Mote, who informed the police station that he is running a hotel at Baner, Pune and his nephew Santosh is running a Pan Kiosk next to his hotel.

While narrating the incident on 1 September 2019, he state that at 2.35 in the afternoon, his nephew was present in his kiosk when three unknown persons visited him for a cigarette. When

he handed over a packet of cigarette and demanded money, they refused to pay by saying that they are mighty persons and they need not pay. One of the persons slapped him. The informant intervened and the three persons left the spot but they warned Santosh that he will have to take the consequences.

3 In the evening at about 5.15 when he was present in the hotel, he overheard shriek from Santosh and his mother-in-law and he witnessed that the three persons, who earlier had a row with him, were present and out of them two persons had caught Santosh by his hands and one person with dark complexion assaulted him by means of a gupti, in his stomach. He fell down and started bleeding. When he attempted to intervene, the same person, who had assaulted Santosh, also gave blows to him which landed on his right hand thumb and his forearm. Thereafter, all the three persons left the spot. The number of the motorcycle was noted by Santosh's mother-in-law and that is how the FIR came to be lodged.

4 During investigation, the accused persons were arrested and subjected to TI parade and the complainant identified the present Applicant though another witness Godawari, who was present on the spot, failed to identify him. There is also recovery of one motorcycle from the present Applicant. The charge sheet allege that the accused persons conspired together and mounted an attack on Santosh, causing his death. The statement of several witnesses are compiled in the charge sheet but all the witnesses in sync with one another have attributed a similar role to the Applicant which is assigned

by the complainant in the complaint. Even the witness Godawari also stated that out of the three accused, who had surrounded her son-in-law, one had them had assaulted him.

5 The role of the Applicant has clearly surfaced on record through the charge sheet. No doubt the offence committed is serious as for a trivial reason, deceased Santosh has been done to death. The weapons used in the crime are also recovered. In the wake of the accusations, the Applicant is alleged to have been present on the spot when the deceased was assaulted by accused no.4 Rathod, who has been identified to be the assailant. The Applicant, however, is charged with the aid of Section 149 and since his presence on the spot has been brought in the charge sheet, he will take the consequence of sharing the common object with all the assailants, to eliminate Santosh.

6 This is a matter of trial and since investigation is complete and the role of the Applicant has clearly surfaced, and the charge being not framed till date, on account of long period being of incarceration into account that the Applicant, who came to be arrested on 2 September 2019, cannot be kept indefinitely in jail. He, therefore, deserve to be released on bail subject to the stipulation that he will attend the trial.

ORDER

(a) The Applicant - Vishal @ Kotya Sanjay Shinde shall be released on bail on furnishing P.R. bond to

the extent of Rs.25,000/- with one or two sureties of the like amount.

- (b) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.
- (c) The Applicant shall mark his attendance in the Sessions Court on the first Monday of every month between 10.00 am to 2.00 p.m and
- (d) The Applicant shall provide address, and telephone number and change, if any, to the Investigating officer.

7 The Application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)