

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

**CRIMINAL BAIL APPLICATION NO. 477 OF 2021**

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|--------------------------|-----------------|
| Dheeraj Gopal Gawali     | .... Applicant  |
| Versus                   |                 |
| The State of Maharashtra | .... Respondent |

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Smt. S. P. Parulekar a/w. Pranit Namde for Applicant.  
Smt. A. A. Takalkar, APP for State/Respondent.

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**CORAM : SARANG V. KOTWAL, J.**  
**DATE : 05<sup>th</sup> APRIL, 2021**

**P.C. :**

1. The Applicant is seeking his release on bail in connection with C.R.No.104 of 2019 registered at Khadki police station, Pune, on 14/03/2019, under sections 302, 452, 143, 147, 148, 323, 504 r/w. 149 of the Indian Penal Code (for short 'IPC') and under section 37(1), 135 of Maharashtra Police Act. The applicant was arrested on 14/03/2019 and since then he is in custody. The investigation is over and the charge-sheet is already filed.

2. Heard Smt. Parulekar, learned counsel for the applicant and Smt. Takalkar, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by one Bharti More. She has stated in her F.I.R. that, she was residing with one Gopal. She was treating Gopal as her own son. However, neighbours did not approve of their relations and they were harassing her. There used to be quarrel between informant's nephew Sagar and Gopal. On 13/03/2019, at about 4:00p.m. and then again at 5:00p.m. there was some quarrel between the first informant and Gopal on one side and other accused Radha Swami and Renuka Pardeshi on the other. In the midnight, the applicant called Gopal. The informant opened the door. The applicant and other accused Radha and Renuka were seen standing at the door. The applicant called Gopal to celebrate his birthday and to consume liquor. The informant refused to let Gopal go out of the house. At that time, Renuka pelted a stone at Gopal, Rajesh Swami removed a sharp weapon and stabbed Gopal on his chest and stomach. Sagar also assaulted Gopal with a sharp weapon. It is alleged in the F.I.R. that the applicant pelted stone, Renuka and Radha abused and beat the informant. After that, all the accused went away. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that, the first informant in this case is dead. Therefore, her version cannot be used as a substantive piece of evidence against the present applicant during trial. She submitted that, apart from this statement, there is absolutely no material against the present applicant. There is no recovery at his instance. There is no motive to commit murder and there are no other witnesses.

5. Learned APP opposed this application and she submitted that, there are other witnesses like Reena, Arjun, Govind etc. who have narrated the version of the informant as the informant herself had told them regarding the incident. She, therefore, opposed this application.

6. I have considered these submissions and with the assistance of both learned counsel, I have perused entire charge-sheet. The Postmortem notes show that the deceased had suffered 12 injuries and cause of death was mentioned as “Hemorrhagic shock due to stab injuries”. Out of 12 injuries, most of the injuries were in the nature of stab injuries and CLWs. According to F.I.R. the applicant had pelted one stone at the deceased. However, no

further details are given. More importantly, now the informant is not available and she cannot be examined during trial. The applicant is also deprived of cross-examining the first informant, therefore, her statement has lost its importance. At this stage, even considering the version given by the first informant, a minor role is attributed to the present applicant and no motive is attributed to him. The applicant is already in custody since 14/03/2019. The investigation is over. His further custody for the entire duration of trial is not necessary. It is made clear that, all the questions of law and fact are kept open to be decided during trial. The applicant can be granted bail in the aforesaid circumstances.

7. Hence, the following order :

**ORDER**

- (i) In connection with C.R.No.104 of 2019 registered at Khadki 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.)**