

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

CRIMINAL BAIL APPLICATION NO. 515 OF 2021

Ravindra Bhalchandra Wagh	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Dilip P. Kamath a/w Manish Singh a/w Iftekhar Sayed,
for the applicant.

Mr. H.J. Dedhia, APP for the State/Respondent.

**CORAM: SARANG V. KOTWAL, J.
DATE : 5th AUGUST, 2021**

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. 189 of 2020 registered at Central Police Station, Ulhasnagar, under sections 302, 143, 147, 148, 149 of the Indian Penal Code and under Section 37 and 135 of Maharashtra Police Act. The applicant was arrested on 30/05/2020 and since then he is in custody. The investigation is over and the charge-sheet is filed.

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

3. The prosecution story is revealed in the FIR itself. The FIR was lodged by Arvind Gavali on 30/05/2020. He has stated that on 29/05/2020, at about 9.30 p.m., he received a phone call from Vedprakash Tiwari @ Golu. He called the informant to Khanna Compound for drinking liquor. He went there and met Ashish Gupta @ dablu , Sunny, Anand, Chika and Golu himself. The informant stopped there for sometime and then he went home. Again at 10.15 p.m., he received called from Vicky, who called him at Khanna compound just to meet his friends. He went there at about 10.45 p.m. He saw that a quarrel was going on between Vedprakash @ Golu and Ashish Gupta @ dablu on one hand and Rakesh on the other. Golu slapped Rakesh. The FIR mentions that the residents from the chawl gathered there and they went towards Vedprakash and Ashish to beat them. Golu and Ashish ran towards Vitthalwadi railway track. After that,

at about 11.00 p.m., the informant saw Vinod Magare, Sameer Shaikh, Deepak Shinde, Ravi Khandekar, Deepak Suradkar and the present applicant going in the same direction. They were carrying weapons like knife, sickle and sticks. The informant heard some noise from the railway track. He went there with one Vicky. He saw that Vedprakash Tiwari @ Golu had fallen down and he had suffered injuries on his head, throat etc. Some blood was found on the stones. The informant himself told the police about the incident telephonically. Police came there and took Vedprakash @ Golu to Central Hospital. On this basis the FIR was lodged under section 307 of the I.P.C. Subsequently, the injured Vedprakash @ Golu died on 31/05/2021 and thereafter Section 302 of the I.P.C. was added. The applicant was arrested on 30/05/2020 itself.

4. Learned Counsel for the applicant submitted that there was delay of 14 hours in lodging of the FIR, though the police had immediately rushed to the spot. Statements of the alleged eye witnesses are recorded

after two days and no explanation is offered for this delay. He submitted that the incident had taken place as a result of sudden quarrel and there was no premeditation.

5. Learned APP opposed this application. He submitted that the offence is serious. The FIR is immediately lodged and there are witnesses who had seen the applicant and others following the deceased towards the spot. The accused were carrying weapons.

6. I have considered these submissions. Apart from the first informant, there are statements of other witnesses. Their versions are also more or less similar. Witness Nilesh Singh @ Sunny has narrated the incident in the same manner as narrated by the first informant. This witness has stated that after the quarrel between the deceased and Rakesh, people from the chawl gathered together and they rushed to beat the deceased and Ashish. This witness has not stated that the applicant and others had followed the deceased with weapons.

Therefore this witness to that extent helps the case of the applicant.

7. Ashish Gupta @ dabluu was with the deceased. He has spoken about the quarrel between Vedprakash @ Golu and Rakesh. He has stated that when Golu slapped Rakesh, residents of the chawl gathered there to assault this witness and Golu. Both of them then tried to run towards the railway track. There they got separated and this witness ran away toward a different side. Subsequently he came to know that Golu had died. Therefore, this important witness had not seen the applicant at all.

8. Statements of other witness which are also important are included in the charge-sheet. They are Rakesh @ Chika who was with the deceased when they were consuming liquor. He has also stated that at the first instance, residents of the chawl had followed the deceased and thereafter the other accused including the

applicant had followed them with weapons. Witness Nehal @ Amit had seen part of the incident. He had seen later part of the incident when the accused had allegedly followed the deceased with weapons in that direction. Statements of the first informant and one Vicky Shinde were recorded under section 164 of Cr.P.C. Both of them in those statements have again narrated the same version that the deceased was followed by the residents of the chawl at the first instance and then the applicant and others had followed them. In his statement recorded under section 164 of Cr.P.C., the first informant had not stated that the applicant and others followed the deceased with weapons. This is an important circumstance where the informant's version differs from his own FIR to the benefit of the applicant.

9. The post mortem notes show that the deceased had suffered as many as 29 injuries including some contusions and abrasions. The cause of death was mentioned as 'death due to head injury'.

10. Considering this evidence, it is apparent that the prosecution story is that; after the quarrel between the deceased and Rakesh, residents of the chawl gathered there and immediately followed the deceased towards the railway track. Thereafter, the present applicant and others had allegedly followed them with weapons. So there is a strong possibility that deceased was assaulted by the residents of the chawl immediately. The applicant and other accused had followed subsequently. Therefore, sufficient doubt is created about the prosecution case in respect of assault allegedly caused by the applicant and others. There are general allegations that the applicant and others were carrying weapons. However, no particular weapon is attributed to the present applicant. There is no recovery at his instance. Thus the case against the applicant is doubtful. The applicant is in custody since 30/05/2020. Therefore, he deserves to be released on bail. It is made clear that all these observations are made for deciding this bail

application. The trial Court shall decide the trial strictly on the basis of evidence produced before that Court without being influenced by the observations made in this order.

11. Hence the following order.

ORDER

- (i) In connection with C.R. No. 189 of 2020 registered with Central Police Station, Ulhasnagar, 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.)