

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

CRIMINAL BAIL APPLICATION NO. 678 OF 2021

Subhan Rama Bhosale

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Rahul B. Vijaymane for Applicant.

Mr. Ajay Patil, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 01st MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.65 of 2020 registered with Kamthi police station, Dist. Solapur, on 21/04/2020 under sections 302, 307, 324 and 120-B r/w. 34 of the Indian Penal Code (for short 'IPC'). The applicant is arrested on 22/07/2020 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Shri. Rahul Vijaymane, learned counsel for the applicant and Shri. Ajay Patil, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by Arjun Kale. He has stated that, he was residing with his wife and two daughters in their agricultural land. His elder sister Maya was brought back by the informant from her matrimonial house because she was facing harassment at her husband's and in-law's hands. Since then, Maya's husband and brothers in law were constantly quarreling with the first informant. The present applicant is father in law of Maya.

4. On 20/04/2020, at about 9:00p.m. the informant, his wife and daughters were sleeping in their field. Suddenly, Maya's husband Mahindra, brothers in law Maher and Balasaheb came there. They told the informant to send Maya with them. At that time, Maya was at Begampur and was staying with her parents. All those three got angry and started assaulting the informant with a big knife. The informant's wife Sheetal intervened to save her husband. She was also assaulted by these three. She suffered serious injuries. She fell down. Thereafter these three ran away from the spot. Sheetal succumbed to her injuries and, therefore, this F.I.R. was lodged.

5. As can be seen, there is no mention of the present applicant in the F.I.R. His name was added by the first informant in his supplementary statement recorded on 22/04/2020. In that statement, he has stated that, when the above mentioned three accused were trying to escape, the informant was seeking help from his neighbours and at that time, the applicant instigated those three to assault the informant. Thus, based on this statement the applicant was named as an accused in this case.

6. Learned counsel for the applicant submitted that the applicant's name is introduced in the story as an afterthought just to pressurise the applicant's family and to see to it that all the male members put behind bars. Though there are other circumstances of recovery of Jambiya and motorcycle at his instance, those are weak in nature. He, therefore, submitted that the applicant deserves to be released on bail.

7. Learned APP opposed this application. He relied on the circumstance of recovery of knife and motorcycle from the agricultural field, as well as, recovery of blood stained clothes. He

also relied on the statements of two other eye witnesses namely Swapnali and Parmeshwar who had seen four persons running away from the spot immediately after occurrence of the incident.

8. I have considered these submissions and with the assistance of both the learned counsel I have perused the charge-sheet. The deceased had suffered 12 serious injuries. She was brutally assaulted and the cause of death was mentioned as 'due to hemorrhage due to multiple deep stab wounds on vital parts of the body'. However, the question remains as to whether the applicant had taken any part in commission of this offence.

9. As rightly submitted by the learned counsel for the applicant, the F.I.R. was very specific. It specifically mentions only three accused i.e. sons of the present applicant and specific role is attributed to them. In the F.I.R., there is no mention of present applicant and his name was introduced in the supplementary statement. In that statement also the applicant is introduced subsequently. According to narration in that statement, the incident of assault was over and when the informant was seeking help from the neighbours, at that time, the applicant came there

and instigated others to assault the informant. Thus, even as per this statement, it was not the prosecution case that the applicant had intended to commit murder of the deceased Sheetal. The informant himself has suffered 8 stab wounds caused by a sharp weapon. Though, his medical certificate is not annexed to the application, learned APP provided a copy before me. Though the first informant has also suffered many serious injuries, but no role is attributed to the present applicant, even in that supplementary statement of causing assault to the informant.

10. Apart from that, there is a circumstance of recovery of blood stained clothes of the applicant. However, those clothes were produced by his wife and they were not recovered pursuant to any statement given by the present applicant. Therefore, this evidence is weak in nature. The other circumstance of recovery of weapon and motorcycle from the agricultural field is another circumstance against the present applicant, but that circumstance by itself will not complete the chain. It would not be appropriate to comment any further on that particular piece of evidence. Considering these circumstances and material against the present applicant, it

appears that the case against the present applicant is not strong. His name is introduced subsequently and there again no role of causing assault is attributed to him. Therefore, bail can be granted to him. It is made clear that the observations made in this order are restricted to passing of this order only. The trial Judge shall not be influenced by any of these observations during trial.

11. Hence, the following order :

ORDER

- (i) In connection with C.R.No.65 of 2020 registered with Kamthi police station, Dist. Solapur, 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.)