

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

CRIMINAL BAIL APPLICATION NO. 679 OF 2021

Jagnarayan Nanmum Varma @ Jangli ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. S. V. Marwadi i/b. Mr. N. M. Nadar, for the Applicant.

Mr. S. S. Pednekar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 24th MARCH, 2021

PC :

1. This is an application for bail in CR No.I-58 of 2018 registered with Shil-Dyghar Police Station, Dist. Thane for offences punishable under Sections 302, 201, 379 and 34 of Indian Penal Code. The applicant was arrested on 14th August 2018.

2. The prosecution case is that accused nos.1 to 4 used to load and unload scrap in vehicles. On 9th April 2018 scrap was loaded in vehicle from godown of Sherafuddin Sheth and the vehicle was taken to weigh the scrap. Accused no.1 took two iron plates from the scrap and threw it on the road. The deceased Jamil Khan saw this and informed about it to accused no.3. The accused apprehended that

Jamil Khan will disclose this fact to Sherafuddin Sheth. They conspired with each other and while the deceased was sleeping, he was assaulted on his head with iron kathavani and with the intention to destroy evidence they destroyed their clothes. On completing investigation charge sheet was filed.

3. Learned counsel for applicant submitted that entire case is based on circumstantial evidence. There is no eye witness to the incident. Recovery of alleged weapon was made from open place. There were no blood stains on the weapon. The statements of witnesses relied upon by prosecution were recorded belatedly.

4. Learned APP submitted that there are strong circumstances against applicant. The weapon used in the crime is recovered from him. Immediately after the incident, the applicant and other accused were missing. They were arrested at Uttar Pradesh. Statement of Gajendra Sharma indicate that in the night of incident, he saw co-accused having conversation with each other. He also relied upon statement of Phulchand Maurya to show that accused were not available at their usual place after incident.

5. Undisputedly there is no eye witness to the incident. The case is based on circumstantial evidence. The weapon was recovered on

16th August 2018. The applicant was arrested on 14th August 2018. Statement of Gajendra Verma was recorded on 25th September 2018. Statement of Phulchand Maurya was recorded on 27th September 2018. Accepting the versions of these two witnesses, it cannot be said to be strong circumstance to establish involvement of the applicant. He is in custody since last two years. There are no criminal antecedents against him. Hence, case for grant of bail is made out.

6. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.679 of 2020 is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.I-58 of 2018 registered at Shil Dyghar Police Station, on executing PR bond in the sum of Rs.25,000/- with one or more local sureties in the like amount;
- (iii) The applicant shall attend Shil Dyghar Police Station once in a month on every first Saturday of the month between 11.00 am and 1.00 pm till further orders;
- (iv) The applicant shall furnish address of place of residence to the Investigating Officer after he is

released on bail;

- (v) The observations made in this order are prima facie only for considering the application for bail and Trial Court shall not be influenced by the same at the time of trial.

(PRAKASH D. NAIK, J.)