

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

**CRIMINAL BAIL APPLICATION NO.578 OF 2020**

Latifkhan Jabbar Khan Pathan ... Applicant

Versus

The State of Maharashtra ... Respondent

**ALONG WITH  
CRIMINAL BAIL APPLICATION NO.575 OF 2020**

Gurvindersingh Sodhi ... Applicant

Versus

The State of Maharashtra ... Respondent

.....

Mr. Sandesh D. Patil i/b. Mr. Prithviraj S.Gole, Advocate for the Applicant.

Ms. Veera Shinde, APP for the Respondent – State.

Mr. P. A. Pange, W.P.S.I. Kalyan Taluka Police Station, (Rural) Present.

.....

**CORAM : PRAKASH D. NAIK, J.**

**DATE : 16<sup>th</sup> FEBRUARY, 2021**

**PER COURT:**

1. The applicants in both these applications are seeking bail in C.R. No. I-520 of 2019 registered with Kalyan Police Station, for offences under Sections 302, 504, 506 r/w Section 34 of Indian Penal Code.

2. The case of the prosecution is that the complainant's husband had obtained loan for business. It was obtained from the person residing at Dombivali namely Pathan. The amount of Rs.2,60,000/- was obtained by complainant's husband. Pathan used

RajeP.  
Aher  
Digitally  
signed by  
RajeP. Aher  
Date:  
2021.02.18  
20:23:05  
+0530

to visit the house of complainant for demanding money. On 12<sup>th</sup> October, 2019 at about 6.00 a.m. when the complainant and her husband were in the house, Pathan had visited the house along with three person. Three unknown person were armed with wooden stumps. They inquired about whereabouts of complainant's husband. All of them dragged him out of the house and abused and threatened him. He was assaulted on head, shoulder and legs. The complainant's husband sustained injuries. He was taken to hospital. He was declared dead. The complainant had named Pathan and three other persons as assailants who had assaulted her husband. The FIR was registered on 12<sup>th</sup> October, 2019. On completing investigation, charge-sheet is filed.

3. Learned advocate for the applicants submit that the applicants are falsely implicated in this case. There are contradictions in the statements of witnesses. No role of assault is attributed to the applicants. The statements of other eye witnesses are hearsay. There are no eye witnesses to incident. Statement of one of the eye witness Deepali Prashant Sanjekar mentions that, she heard commotion and saw from the window that complainant's husband was in injured condition and one Sikh with black turban was leaving the place with stump. It is submitted that she is the only independent eye witness and she has referred to only one person which contradicts the

version of complainant. He also submits that neighbour to whom the complainant has disclosed the incident has stated that door was locked from outside and the complainant's husband was assaulted is also contradictory to the version of the complainant. Only one weapon is recovered in the nature of stick. There was no reason to identify Pathan as he was named. The identification shows that the prosecution was not sure about the identity of the applicant Latifkhan Pathan. The other accused Gurvindersingh Sodhi is also allegedly identified. However, considering the nature of evidence the applicants need not be detained in custody. Learned counsel for the applicant submitted that the application of applicant in Bail Application No. 578 of 2020 was rejected by the Sessions Court prior to filing of charge-sheet. However, the charge-sheet is before the Court and both applications were argued on merits.

4. Learned APP submitted that both applicants were identified in Test Identification Parade. Specific role has been attributed to the applicants. The version of complainant cannot be disbelieved at this stage. Her evidence is sufficient to support the prosecution case.

5. On perusal of the documents on record it is apparent that the complainant has stated that the accused Pathan used to visit

the house for demanding money which was parted to her husband by way of loan. On the day of incident he along with his associates had visited the house, the complainant's husband was dragged out and assaulted by them. The applicant Latifkhan Jabbar Khan Pathan was the main person. At his instance the deceased was assaulted. The Post-mortem report shows that the victim had suffered about 17 injuries in the nature of contusions and CLW. The report also indicate that the injuries can be caused by hard and blunt weapon and in ordinary course of nature to cause death. The test identification parade was conducted and both the applicants were identified. The submissions of learned counsel for the applicant cannot be accepted at this stage. Prima facie there is evidence to show the involvement of applicants. Hence, no case for grant of bail is made out.

### **ORDER**

Criminal Bail Application Nos. 578 of 2020 & 575 of 2020 are rejected and stand disposed of accordingly.

6. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

**(PRAKASH D. NAIK, J.)**