

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 836/2021**

Prakash @ Pakya Rama Shinde

.....Applicant**V/s.**

The State of Maharashtra

....Respondent*** * * ***

Ms. Vandana M. Tiwari, Advocate for the applicant.

Ms. Prajakta Shinde, APP for State.

Investigating Officer, PI Mr. Arvind Gung from Borivali Police Station present.

CORAM : SANDEEP K. SHINDE, J.**Thursday, 2nd September, 2021.****P.C. :**

1. Heard learned Counsel for the applicant and learned APP for State.

2. Applicant is seeking his enlargement on bail in connection with Crime No.619/2019 dated 8th November, 2019 registered with Borivali Police Station for the offences punishable under Section 302, 324 read with Section 34 of the Indian Penal Code, Sections 4 and 25 of the Arms Act and Sections 37(1)(a) and 135 of the Bombay Police Act.

3. Prosecution case in brief is that, on 8th November, 2019, a dispute arose among rickshaw drivers over the parking of rickshaws on the rickshaw stand. Applicant and the deceased were rickshaw drivers. It is alleged that, accused Sunil Bhosale was plying the rickshaw of the applicant, eight to ten days prior to the incident. On the given date and at the material time, the applicant came at the rickshaw stand with co-accused Bhosale. After parking the rickshaw at the stand, applicant was standing with the deceased, Babloo. At that time, suddenly co-accused Bhosale, removed the iron pipe from the rickshaw of the applicant and dealt a blow on the head of Babloo (deceased rickshaw driver). Whereafter, applicant and the co-accused allegedly scared the mob which had gathered on the spot by waving the iron rod and sickle (Koyta). Thus alleged, applicant and the co-accused fled the scene of offence. The injured Babloo who was removed to one hospital and thereafter shifted to Shatabdi Hospital. He succumbed to injuries on 11th November, 2019. The applicant was arrested soonafter the incident. The investigation is over and the chargesheet has been filed. Prosecution, in support of its case, largely rely on the statement of the eye-witness. First eye-witness is the complainant, another is Sachin Babaji Kurle. Both are rickshaw drivers. These witnesses attributed role to co-accused, Bhosale who dealt a blow on deceased head. The allegations against the applicant were that the co-accused, applicant accompanied co-accused Bhosale who had pulled out

iron rod kept in the rickshaw of the applicant. Besides it, there is no other incriminating material against the applicant. Learned APP has relied on statement of shopkeeper, from whom the rod, allegedly used in the crime, was purchased by the applicant. Be that as it may, the statement of the shopkeeper is not sufficient, at this stage, to continue the custody of the applicant in the jail. Applicant has been incarcerated since November, 2019. There are no criminal antecedents against the applicant. His presence for trial can be secured by imposing suitable conditions. For this reason, the application is granted. Hence, the following order :

ORDER

(i) The applicant arrested in Crime No.619/2019 dated 8th November, 2019 registered with Borivali Police Station, shall be released on bail on executing P.R. bond for the sum of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or more sureties in the like sum.

(ii) The applicant shall not establish any contact with the prosecution witnesses and shall stay in the jurisdiction of another police station till the trial is concluded.

(iii) The applicant shall report to the concerned Police Station initially twice a month i.e. second and fourth Monday for a period of six months between 11:00 to 1:00 p.m. and thereafter once in a month till the charge is framed and co-operate in the investigation.

(iii) The applicant shall furnish his permanent residential address and contact number to the Investigating Officer forthwith within a week of his release from jail.

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

6. The application is accordingly allowed and disposed off.

7. It is made clear that, observations made hereinabove, shall be construed as expression of opinion for the purpose of granting bail only and the same shall not, in any way, influence the trial in other proceedings.

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(SANDEEP K. SHINDE, J.)