

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.658 OF 2020

Aarif *alias* Akshay Vinod *alias* Ankush Kamble .. Applicant

Versus

State of Maharashtra

.. Respondent

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Mr.Nilesh Tribhuvan with Ms.Alisha Pinto, Shreedhar Lad i/b White and Brief, Advocates and Solicitors for the Applicant.

Mr.A.R.Kapadnis, APP for the State.

API Bhagwan Dashrath Kamble attached to Wanwadi Police Station present.

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CORAM: BHARATI DANGRE, J.

DATED : 9th JULY, 2021

P.C:-

1. Being charge-sheeted for the offences punishable under Sections 143, 144, 147, 148, 149, 324 and Section 120-B of the IPC read with Section 4(25) of the Arms Act and Section 37(1) (3) read with Section 135 of the Bombay Police Act in C.R.No.507 of 2018 registered on 24/12/2018 with Wanwadi Police Station, Pune, the applicant has filed the present application, seeking his release on bail, on his application being rejected by the Sessions Court, Pune.

2. Heard Mr.Tribhuvan, learned counsel for the applicant and Mr.Kapadnis, learned APP for the State.

3. The FIR came to be registered on the complaint filed by one Sebastian Samuel John, naming two persons and two unknown persons responsible for injuring him and one Khanna Pardeshi, on account of a previous animosity and grudge, as an outcome of the incident which had taken place two months back. The present applicant is named in the FIR by the complainant.

It is alleged by the complainant that on 24/12/2018, on a Christmas eve, he had visited Wanwadi, Pune for the purpose of making a crib, where he met the deceased Khanna Ramu Pardeshi. The deceased invited the complainant for a drink and the complainant accepted his invite. He accompanied him for purchase of a bottle of alcohol. Thereafter the deceased, Gabbu Pardeshi, Pramod Chavan alias Panya, Tinku Pardeshi and the complainant went to a forest area opposite Shantinagar for consumption of alcohol. Subsequently, two other persons also joined them, but they left in a while. Since it was dark, the deceased switched on the torchlight of his mobile phone and hung his phone on a nearby tree and the persons who had assembled there, continued to consume alcohol. Since the liquor was over, the complainant and Panya got fresh stock and thereafter Gabbu Pardeshi, Panya and Tinku left the place, leaving the complainant and the deceased. The deceased fell asleep since he was on excess consumption of alcohol and even the complainant fell dizzy and slept. Suddenly he was stirred and when he opened his eyes, he was surrounded by four persons and he recognised two of them and alleged that the applicant, resident of Wanwadi was accompanying the accused Bablu @ Haidar Dilip Pardeshi and

was holding a sharp edged weapon. The version of the complainant is that the applicant attacked him with sharp edged weapon and on his attempt to dodge the blow, he sustained injury on his left palm. He somehow managed to flee from the spot and while running away, he looked back and saw that accused Bablu and the applicant were assaulting the deceased. Three accused persons chased the complainant, but somehow, he managed to escape. The complainant sought help for injured and he was taken to Ruby Hall Clinic where he was declared dead.

4. The complainant state in his complaint that in October 2018, when accused Bablu and the applicant were crossing Nobel Bakery in a vehicle, they crossed path with deceased and one Akshay Lande and Pardeshi had questioned the applicant, why he was staring at him and had also abused him. He parked his vehicle and picked up a stone and hit at him. This had prompted the applicant to lodge a complaint in respect of the said incident and since then accused Bablu and the applicant had grudge against deceased Pardeshi and this is how they have revenged deceased Pardeshi by assaulting him with sharp edged weapon and also injured the complainant, who was present with him.

5. In the backdrop of the said allegations, the offence came to be registered and during the course of investigation, statements of several witnesses were recorded. Postmortem was performed on the body of the deceased Pardeshi and

column No.17 of the Postmortem Report records 24 injuries, which are chop injuries and incised wounds. The cause of death is opined as “hemorrhage and shock following multiple chop and incised injuries”. The Postmortem Report reflects the brutality of the attack.

6. During the course of investigation, statements of several witnesses were recorded. The complainant’s supplementary statement is recorded on 30/12/2018 where he states that when he was returning to rescue the deceased towards Katvan, he noticed accused Haider, his brother Akshay and two persons riding on Activa. He was confronted with the CCTV footage and he recognised the two persons present with Haider and Akshay.

Statement of one Mahesh Wagdare is recorded and compiled in the charge-sheet where he report about noticing three boys, who had parked the vehicle near the shop and saw them walking towards Katvan (forest). One of the said persons was armed with scythe. He also saw one person known to him by name Haider Pardeshi, who came out from Katvan in a frightened situation and he told Jayesh, who was present with him, to run away. Following Haider was a person wearing a dark colour shirt, driving Activa and who was asking Haider to accompany him in the forest and Haider sat on his bike. At that time, two persons with mobile torch came out of Katvan. They looked frightened and one of them was identified by Mahesh to be Rakesh. All the four persons rode on the Activa and left towards main road. The witness realised that something had transpired in the forest area. At that time,

one dark colour person came running in frightened condition and when inquired, he revealed that Khanna was shot. Thereafter, the witness, Jayesh and one Akash, searched in the forest area with the help of their mobile torch, where they saw Khanna lying in a pool of blood. He was rendered assistance by the witness and brought on road.

Statement of Jayesh, who was accompanying the earlier witness Mahesh is also on similar lines. Further, statements of one Rohit, Chaitanya and Prashant , who speak of the deceased Khanna Pardeshi lying in injured condition in the forest area, are also compiled in the charge-sheet.

7. During investigation, a CCTV footage is recovered which is obtained from the CCTV camera fixed in front of Padam Vilas Society, Wanwadi, Pune, which record the happenings of the incident where the accused persons are seen running out of the forest. The applicant is seen in the said CCTV footage, which found recorded in three cameras fixed on the spot.

8. The evidence compiled in the charge-sheet, *prima facie*, point out the involvement of the applicant in the crime. In the wake of material compiled in the charge-sheet, no case is made out by the applicant for his release on bail and though he is arrested on 03/01/2019, he must await the outcome of the trial.

The application is rejected.

[SMT. BHARATI DANGRE, J]