

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

CRIMINAL BAIL APPLICATION NO. 916 OF 2021

Sandeep Manohar Jadhav	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Yuvraj Narvankar a/w Adwait A. Agashe i/b Chetan Alai, for the applicant.

Mr. S.H. Yadav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 16th MARCH, 2021

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. 150 of 2019 registered at Bhosari Police Station, on 05/02/2019 under sections 302, 307, 143, 147, 148, 149 of the Indian Penal Code, under Sections 4 and 25 of the Indian Arms Act, Section 37 and 135 of the Maharashtra Police Act. The applicant was arrested on 5/2/2019 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Mr. Yuvraj Narvankar, learned counsel for the

applicant and Mr. S.H. Yadav, learned APP for the State.

3. The prosecution case is about commission of murder of one Sunil Arade. The incident is dated 4/2/2019 and had taken place at around 10.00 p.m.

4. The FIR was lodged by Aniket Chandane on 5/2/2019. He has stated that on 4/2/2019 at about 10.00 p.m. his uncle Sunil had called him to the spot of incident. The informant was told by his uncle that there was some quarrel between the informant's uncle and other group. The informant went to the spot. He met Kiran, Renold, Aadjan Qureshi at that spot. They went near a bridge. The informant's uncle was on the other side of the bridge. He was encircled by few boys who were quarreling with him. In the meantime, 10 to 12 persons came there holding sickles and sticks. The informant, Renold and Salman tried to stop them but they were assaulted. Therefore, Renold and Salman ran away. All these assailants then assaulted informant's uncle as well as the informant. Both of them fell down on the spot. After

sometime, they were taken to the hospital by somebody. The informant came to know that his uncle had died because of the injuries. Therefore this FIR was lodged. It was mentioned in the FIR that the deceased had some dispute with one Ravi Manjrekar. Therefore Ravi Manjrekar's group was on inimical terms with the deceased and therefore somebody from their group had committed murder of the deceased.

5. Learned Counsel for the applicant submitted that the two eye witnesses Salman and Renold have not named the present applicant. Even the first informant Aniket has not named him in the FIR but he was named only in the supplementary statement recorded after two months. He submitted that though the applicant is identified by the informant in the identification parade, in view of his supplementary statement, sufficient doubt is created around supplementary statement as well as identification parade.

6. Learned APP opposed this application. He submitted

that besides the identification by the informant and his supplementary statement, a Bolero car is recovered at the applicant's instance. Said car is referred to in the statement of one Ranjit Gaikwad who has stated that assailants had gone away in that car.

7. I have considered these submissions and with the help of assistance of learned Counsel, I have perused the charge-sheet. The deceased had suffered four injuries. They were on the forehead, head and knee. The cause of the death was given as 'head injury'. The informant himself had suffered one stab injury over back and five C.L.W.'s at back, left hand, left foot, left side forehead, and left ear lobe.

8. The informant's case is that 10 to 12 persons had assaulted the deceased and the informant with their respective weapons. Significantly, he has not named any one of them. However, surprisingly, in his supplementary statement dated 15/4/2019, he has given names of many assailants including the

present applicant. It is mentioned in that statement that the applicant with wooden stick had assaulted the informant. The roles of assault on the deceased is given to Ravi Manjrekar, Rohit, Rajesh and Rishikesh.

9. The informant Aniket identified the applicant in the identification parade, which was held on 12/07/2019 i.e. after three months of recording of his supplementary statement. Once the names were mentioned in the supplementary statement, there was no occasion to hold identification parade. In any case, co-accused Abhijit Khandagale, who is similarly identified in the test identification parade, is granted bail by this Court (Coram: Prakash D. Naik, J.) vide order dated 09/01/2020, passed in Criminal Bail Application No. 2417 of 2019. Thus principles of parity apply to the present applicant, as far as test identification parade is concerned. The other eye witnesses Renold and Salman have not named the present applicant. The only remaining incriminating piece of evidence is in respect of the recovery of Bolero car at the instance of the present applicant. However, in

the statement recorded under section 27 of the Evidence Act, place at which the car was parked or concealed was not mentioned in the statement itself. Therefore it is doubtful whether it satisfies all the requirements of Section 27 of the Evidence Act. In this view of the matter, considering these factors, applicant can be released on bail.

10. Hence the following order.

ORDER

- (i) In connection with C.R. No. 150 of 2019 registered with Bhosari Police Station, Pune, 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) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)