

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1259 OF 2021

Somnath Pappu Ramchandra More .. Applicant
Versus
The State of Maharashtra .. Respondents

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Mr.Aniket Nikam for the applicant.
Mr.A.R. Kapadnis, APP for the State

CORAM: BHARATI DANGRE, J.
DATED : 24th AUGUST 2021.

P.C:-

1 Heard Mr.Aniket Nikam for the applicant and
Mr.A.R. Kapadnis, learned APP for the State.

2 The applicant is charge-sheeted in C.R.No. 1058 of
2020 registered with Kondwa police station which invoke Section
302, 307, 120-B read with Section 34 and Section 4(25) of the
Arms Act along with Section 37(1) r/w 135 of the Maharashtra
Police Act.

 The applicant, on filing of charge-sheet, had moved
the Addl. Sessions Judge, seeking his release on bail and on his
application being rejected on 8th February 2021, has approached
this Court.

4 The deceased is one Sagar Avtade who succumbed to the injuries suffered by him in an assault which was witnessed by the informant Purshottam Mandavale. The C.R in which the applicant is charge-sheeted came to be registered on his complaint who alleged that on 26th September 2020, when he was present in his garage, the deceased visited him as he brought his two wheeler for servicing. While the vehicle was being repaired, Sagar was sitting on a stool outside the garage and at around 3.30 p.m, a white colour four-wheeler moved in front of the garage and three unknown persons alighted from it. They were armed with sharp weapons and they started assaulting Sagar brutally, as a result of the blows, Sagar fell down and started bleeding. The informant ran away from the spot since he was afraid. After some time, when he returned to the garage, Sagar was still lying in a pool of blood and was moaning with pain. The informant called for help and Sagar was admitted to the hospital, where he succumbed to the injuries.

5 The FIR is registered against two unknown persons. The investigation progressed and statements of several witnesses came to be recorded. Statement of the witnesses who carried Sagar to hospital are compiled in the charge-sheet and these are two statements; one by Chirag and another by Laxman who stated to the Investigating Officer that while being carried to the hospital, when they inquired with Sagar as to who had assaulted

him, he took names of one Narayan Puri, Junaid Shaikh, Nitin Phunagar as the assailants. Statement of one Aniket Kamthe is recorded who was closely acquainted with the deceased. He has revealed the previous enmity of Sagar with Narayan Puri and the witness has stated that both Sagar and Narayan Puri were at loggerheads and were involved in different offences. He has stated that in the year 2019, Sagar and his friends had hatched a plan to eliminate Narayan, pursuant to which the offence was registered in Hadapsar police station and Sagar absconded. There was also an offence registered against Sagar in January 2020 for enticing a girl. From the statement of the said witness, the previous enmity of accused Narayan Puri with the deceased Sagar has come on record.

6 As far as the present applicant who is arraigned as Accused no.4 in the said C.R is concerned, he is charged with providing a car to the assailants in giving effect to the conspiracy of mounting an assault on him on the day of incident. Statement of one Atish Shinde recorded on 20th October 2020 is compiled in the charge-sheet, where he state that he was in the company of the present applicant at Handewadi on 26th September 2020 when the applicant informed him that Junaid Shaikh (co-accused) had taken his Tata Indica car and when Junaid was called, for return of the car, he informed that he had to visit the hospital and he cannot return the car immediately. At about 4.00 p.m, co-

accused Junaid called the witness and informed him about Narayan and himself assaulting Sagar and he also informed that the tyre of the Tata Indica car burst while they were fleeing away after assaulting him and he had left the car at a particular location. When they reached the location, two accused persons were present along with the third accused who revealed that they had assaulted Sagar.

7 The learned APP has relied upon a statement of one Mohsin Attar, who in his statement recorded under Section 161, provide the information that he is the owner of the Tata Indica car MH-14-CX-9113, and he purchased the said car from his friend Mohansingh Rajput, when he paid only half of the amount of consideration. After taking the possession of the car, he was driving the car on Pune-Mumbai road, but during the lock-down period, there was no business and since he was in need of money, he mortgaged the car with the present applicant. He further state that he paid the amount of interest to the applicant on 19th September 2020. He was informed that the said car was attached in one offence of murder and he reported to the police station. Mohsin has stated that he was called by the present applicant at Handewadi and forcibly, made to sign on a document where the Revenue Stamp was affixed, by which the car was sold to Junaid. Some unknown person signed as Junaid Shaikh, and he was handed over the photocopy of the said document. The statement

of the said witness indicate that the car which was used by the assailants was in possession of the applicant.

8 From the said statement, what can be attributed to the present applicant is an attempt on his part to mislead the investigation by executing a document to show that the car belongs to Junaid, the co-accused and the submission of the counsel for the applicant is to the effect that this was done by him so as to avoid any problem or being apprehensive that he will be roped in the said C.R since the vehicle was used by the assailant nos.1 to 3 for commission of murder. In any case, the perusal of the charge-sheet reveal that apart from this, there is no other material indicating any actual participation of the applicant in the assault mounted on the deceased, nor there is any material reflecting the conspiracy with the other co-accused.

9 Pending the trial, the applicant is therefore, entitled for being released on bail, subject to the following terms and conditions :-

ORDER

- (a) The Applicant – Somnath @ Pappu Ramchandra More, in connection with C.R.No.1058/2020 registered with Kondhawa Police Station shall be released on bail on furnishing P.R. bond to the extent

of Rs.25,000/- with one or two sureties of the like amount.

- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.
- (c) The Applicant shall mark his attendance in the concerned police station on first Monday of every month between 10.00 am to 1.00 p.m till framing of charge, and thereafter abide by the directions of the Court conducting the trial.

The Application is allowed in the aforesaid terms.

SMT. BHARATI DANGRE, J