

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

CRIMINAL BAIL APPLICATION NO. 1389 OF 2021

Sachin Bhagwan Bhilare Applicant

Versus

The State of Maharashtra Respondent

Mr. Kuldeep Patil a/w Saili N. Dhuru, for the applicant.
Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

**CORAM :SARANG V. KOTWAL, J.
DATE : 14th JUNE, 2021
(Through Video Conferencing)**

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. 371 of 2020 registered at Rajgad Police Station, Pune under sections 143,147,148,149, 232,324,302, 307, 120-B of the Indian Penal Code and under Section 4 and 25 of the Indian Arms Act. The applicant was arrested on 04/09/2020 and since then he is in custody. The investigation is over and the charge-sheet is filed.

2. Heard Mr. Kuldeep Patil, learned counsel for the

applicant and Ms. Pallavi Dabholkar, learned APP for the State.

3. The prosecution case is reflected in the FIR itself which is lodged by one Dashrath Dimble . He is maternal uncle of the deceased Pravin More. He has stated in his FIR that Pravin More and his friends had committed murder of Yuvraj Bhilare in the year 2017. Pravin was detained in jail since 2017. On the date of the incident, he was staying with the informant as he was released on parole for a period of 45 days from 03/06/2020. On 06/07/2020, at about 8.15 a.m., Pravin stepped outside the house. The informant suddenly heard big noise. He rushed there. He saw that four boys were assaulting Pravin with sickle. The informant was joined by his sons Sangram and Sangam to the spot. They saw that Datta Lekavale , his brother Mahesh Lekavale and two unknown persons were assaulting Pravin with sickles. Pravin was assaulted on his head, neck and hands. The informant and his sons tried to prevent the assailants from assaulting Pravin but they were not successful. It is mentioned in the FIR that Datta again went near Pravin, gave a blow with sickle and told him that the

applicant had sent him to commit assault on Pravin. After the assault, they went away from the spot in their car. The informant, his sons Sangram and Sangam, his wife Viday, mother Indubai went near Pravin. He was taken to the hospital. It is mentioned in the FIR that, on the way Pravin told the informant that this was all done by the applicant. Pravin was taken to Bharati Hospital, Pune but he was declared dead. On this basis, the FIR was lodged.

4. Learned Counsel for the applicant submitted that there is hardly any material against the present applicant. The version of the informant about utterance of Datta Lekavale saying that the applicant had sent him, is not supported by other eye witnesses from the informant's family. He submitted that, the only circumstance alleged against the present applicant is about the motive. The FIR itself mentions that Datta Lekavale himself had motive to commit murder as Datta Lekavale was a close friend of Yuvraj Bhilare, who was murdered by Pravin. He submitted that there is no recovery at the instant of the present applicant.

5. Learned APP strongly opposed this application. She submitted that, the FIR itself shows that, the main assailant Datta Lekavale had clearly told the deceased that, he was sent by the present applicant. She submitted that the FIR mentions that the deceased himself had told the informant that this all was done by the present applicant. She submitted that such statement made by the deceased can be treated as his dying declaration. Therefore, at this stage there is sufficient material against the present applicant.

6. I have considered these submissions. The version of Dashrath Dimble, the informant is already mentioned hereinabove. Apart from Dashrath Dimble, there are other eye witnesses to the incident from his own family namely his wife Viday, is sons Sangram and Sangam and mother Indubai. All of them have stated about the assault on Pravin by Datta Lekavale and three others with sickles. Significantly, none of these witnesses has mentioned that the main assailant Datta Lekavale had named the present applicant as the person behind this assault. Similarly,

none of them has stated that, while being taken to the hospital, the deceased had stated that the assailants were sent by the present applicant. The FIR itself mentions that Datta Lekavale was a close friend of Yuvraj Bhilare and therefore, he was holding grudge against the deceased Pravin because Pravin had committed murder of Yuvraj Bhilare.

7. The post mortem notes show that there were in all 19 injuries in the nature of incised wounds, abrasions and C.L.W.s Cause of death is mentioned as “ death due to acute cardio respiratory arrest due to multiple incised injuries on body with major vessels torn with crush injury with compound fracture with fractured cervical spine”. Thus the injuries are in consonance with the versions of eye witnesses.

8. Besides, aforementioned eye witnesses, there are other independent witnesses namely Sunil Shinde, Dattatraya Jadhav and Swapnil Phadtare. All of them had seen the assault. They were positioned in a nearby company. None of them has stated

that the assailant had taken applicant's name. Though it can be argued that these eye witnesses were at some distance from the place of the incident, however, fact remains that except the first informant nobody has stated that the main assailant Datta Lekavale, had named the present applicant as the main person behind that assault. The other assailants according to the prosecution case, were Pankaj Badade, Prashant Badade and one Chandrakant. Thus, even as per the prosecution case, the applicant was not present at the spot. The only allegation against the present applicant is regarding motive which is reflected in the statement of Prashant More who is brother of the deceased Pravin. He has stated that because of Yuvraj Bhilare's murder, the applicant and Datta Lekavale were holding grudge against the present applicant.

9. Thus, the entire material against the present applicant is regarding motive to commit murder. Beyond that, there is no sufficient reliable material to connect the present applicant with the present crime. Learned APP accepted statement of learned

Counsel for the applicant that there were no antecedents. In this view of the matter, the applicant deserves to be released on bail.

10. Hence the following order.

ORDER

- (i) In connection with C.R. No. 371 of 2020 registered with Rajgad 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.)