

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1826 OF 2021**

Mrutyunjay Narayan Patole .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. Umesh Pawar for the Applicant.

Ms. P.N. Dabholkar, A.P.P. for the State.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 09TH JULY, 2021.

P.C:-

1. The Applicant came to be arraigned as Accused No.4 in C.R. No.103 of 2020 registered with MIDC Kupwad Police Station. On completion of investigation and submission of police report, he is charge-sheeted for the offences punishable under Sections 302, 307, 120-B, 143, 147, 148, 149, 109 of the IPC and under Sections 4 and 25 of the Arms Act. The Applicant seeks his release on bail in connection with the said C.R. on the ground that there is no iota of evidence compiled in

the charge-sheet against him and, he is falsely implicated in the offence only on the statement of the co-accused, which is not admissible in evidence.

2. On perusal of the charge-sheet, the prosecution case and the role attributed to the respective accused surfaces to the effect that one Dattatray M. Patole was done to death by some unknown persons by assaulting him by means of skythe and causing serious injuries. The Complainant is his nephew Chaitanya Sakharam Patole, who lodged a complaint on 10/07/2020, when he was informed by some acquaintance that his uncle has been murdered in the premises of Rohini Cold Storage. He had sustained several injuries and his skull was broken and internal substance material was oozing out with several other injuries on his body.

3. Charge-sheet indicts five accused persons and alleges that Accused No.1 had grudge against the deceased on account of the previous enmity and he along with Accused Nos.2 and 3 followed the deceased on their Splender motorcycle and arrived at the road, crossing Siddivinayak Bump Industries, where Accused No.1 pulled the deceased from his motorcycle and assaulted him by means of a sword. Thereupon, the deceased, in order to save his life, ran out of Rohini Cold Storage and was chased by Accused Nos.1, 2 and 3. Accused No.1 was armed with a sword, Accused No.2 armed with a Skythe and Accused

No.3 stayed at the gate of Rohini Cold Storage while the deceased was assaulted by Accused Nos.1 and 2 by weapons in their hands. One Vijay Sawant, who attempted to rescue the deceased was also assaulted by Accused No.2 by means of Scythe and he sustained injury. After the incident, all the three Accused fled away from the spot on their Splender motorcycle. As far as Accused Nos.4 and 5 are concerned, it is alleged that they informed the other accused about the deceased departing on his motorcycle from his place of work, Sahyadri Starch Company and, after the incident was over and when Accused Nos.1, 2 and 3 fled away on their motorcycle, Accused Nos.4 and 5 followed them on their Activa Moped on Miraj MIDC Road. Accused No.2 is also charged with the act of destroying the shirt, which he was wearing at the time of incident so as to destroy the evidence.

4. In the light of the aforesaid allegations levelled in the charge-sheet, learned counsel Mr. Pawar would submit that the Applicant is not attributed the role of assaulting the deceased or the injured and the role that has been assigned to him is only providing information to the other accused and, after the incident, he is alleged to have followed the other accused persons on his Moped along with Accused No.5.

5. Learned A.P.P. Ms. Dabholkar has relied upon panchanamas about the recording of CCTV footage from two

places. The first panchanama is about CCTV footage, which records the scene on the road opposite Siddhivinayak Bump Industries for the period between 12.06 and 12.12 on 07/12/2020. The said panchnama records on basis of CCTV footage that Accused Nos.1, 2 and 3 are seen chasing the deceased. Thereafter, a white colorued motorcycle Activa driven by the Applicant along with Accused No.5 is seen to enter the screen and, thereafter, Accused Nos.4 and 5 are seen heading towards Miraj MIDC Road on their motorcycle. In the same footage, Accused Nilesh is seen armed with weapon and, he accompanied by the co-accused, is seen walking towards Miraj MIDC Road on the road opposite to Siddhivinayak Bump Industries.

6. Another CCTV footage, which records the events between 12.18 and 12.23 on 10/12/2020 is the footage in the CCTV of Rohini Cold Storage, which records Accused Nos.1 and 2 chasing the deceased with weapons and after murdering him coming out of Rohini Cold Storage with weapons in their hands.

7. On the basis of the said CCTV footage, learned A.P.P. would submit that the Applicant is seen in the CCTV footage following the other accused persons on his motorcycle and riding towards Miraj MIDC. Accepting the said piece of evidence is compiled in the charge-sheet and accepting it as a credible evidence collected by the prosecution, the Applicant is not seen

assaulting the deceased nor is he armed with weapon. He is, however, charged with the aid of Section 120-B of the IPC for the criminal conspiracy. When learned A.P.P. was asked about the material to reflect the conspiracy, she relied upon the statement of Sandip Kamble, who deposed that on 08/12/2020 when he was riding his motorcycle in Sangli MIDC Kupwad Road, he noticed the Applicant in the company of other accused persons and they were discussing something. This evidence, at this stage, is not sufficient to establish criminal conspiracy and merely because the accused persons chitchatting together does not establish criminal conspiracy and, in this particular case, the conspiracy being hatched to eliminate the deceased. The evidence brought on record qua the present Applicant is compiled in the charge-sheet indicates that he followed the other Accused persons on his motorcycle either before the incident or after the incident, because going by the CCTV footage, the footage in which the Applicant is seen is between 12.06 and 12.12 hours whereas, Accused Nos.1 and 2 are seen chasing the deceased and subsequently walking out of Rohini Cold Storage at 12.18 to 12.23 hours, which is subsequent to the first CCTV footage.

8. In absence of any evidence pointed out by learned A.P.P. in respect of the charge of criminal conspiracy and when it is apparent from the charge-sheet that the Applicant has not assaulted the deceased, he is entitled to be released on bail since

the investigation is complete and the charge-sheet is filed. The Applicant is a young person, aged 27 years, and he has no criminal antecedents, is the statement of the Applicant, which is not disputed by learned A.P.P. It is clarified that the observations made are *prima facie* in nature, limited to the decision on bail application and the trial court shall not be influenced by the same, while trying the Accused persons in the trial. Hence, the following order.

ORDER

- (a) The Applicant – **Mrutyunjay Narayan Patole**, shall be released on bail in C.R. No.103 of 2020 registered with MIDC Kupwad Police Station, District Sangli on executing P.R. bond to the extent of Rs.25,000/- and furnishing 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 and shall not tamper with prosecution evidence.
- (c) The Applicant shall attend the trial court regularly, unless exempted.

9. The Application is allowed in the aforestated terms.
10. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]