

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1730 OF 2021

KUNAL BALU CHAVAN

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Piyush Toshnival, Advocate for the Applicant.

Ms.PN.Dabholkar, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 22nd NOVEMBER 2021
PRONOUNCED ON : 4th DECEMBER 2021**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.568 of 2020 registered with Police Station Vishrantwadi, Pune, for offences punishable under Section 302, 324, 323, 143, 147, 149 read with 34 of the Indian Penal Code (IPC) and under Section 37(1) read with Section 135 of Maharashtra Police Act.

AVK

1/6

2 It is the case of prosecution that on 1st June 2020, at about 1.30 a.m., when the informant's son Akshay Gagodekar and his friends were sitting in the open ground of Gokul Nagar, Dhanori, accused Indrajeet and Aakash assaulted Akshay on his head with a stone and other two persons also assaulted by means of sticks and fist and kick blows. When the prosecution witness Ganesh tried to intervene, he was also assaulted with wooden logs. First Information Report (FIR) accordingly came to be lodged.

3 According to Mr.Piyush Toshnival, learned counsel for the applicant, the name of the present applicant is nowhere revealed in the FIR and his name only came to be given by way of supplementary statement. Nothing is recovered at his instance. The evidence against the applicant is quite vague. The applicant is in jail since 1st June 2020 and the fact that investigation is over and charge-sheet has been filed, the applicant deserves to be released on bail.

4 Ms.PN.Dabholkar, learned APP, on the other hand, opposed the submissions and invited my attention to the statement of prosecution witness, namely, Ganesh and submitted that there is sufficient evidence on record to prove the complicity of accused in the offence. The learned APP also invited my attention to the opinion as to the probable cause of death given by Autopsy Surgeon as 'death due to crushed head injury'.

5 Perused the investigation papers. It appears from the Medical Notification of Death pertaining to Akshay that the cause of death was crushed head injury. Admittedly, FIR nowhere reveals the name of the applicant. However, it is desirable to go through statement of prosecution witness, namely, Ganesh Ashok Raste. As pointed out by learned APP, his statement shows that the applicant, at the relevant time, was also present there as he was introduced to him and deceased by accused Nilya @ Aakash Shivgan and Indrajeet Gaikwad. It is his further statement that a quarrel ensued between deceased Akshay and Indrajeet and then accused Aakash and Indrajeet started assaulting the deceased by

means of wooden stump on his head, back and hands. When this witness tried to intervene, he was also assaulted by means of wooden stump. It is his further statement that his remaining three friends beat deceased Akshay by means of fist and kick blows and in an attempt to beat deceased Akshay by means of stone when those friends were trying to lift stones, this witness, out of fear, ran away. After sometime when he returned along with mother and sister of deceased Akshay, by that time accused Aakash and Indrajeet had fled after hitting stone on head of the deceased.

6 Apparently, the role attributed to the applicant, even assuming that he was one of the friends, is to the extent of beating given by means of fist and kick blows. I have already pointed out the cause of death. In such circumstances and having regard to the material on record, in my considered opinion, the applicant has made out a case for bail. Hence, I pass the following order :

ORDER

- (i) Applicant – Kunal Balu Chavan shall be released on bail in Crime No.568 of 2020 registered with Police Station Vishrantwadi, Pune, on his executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in like amount.
- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the Court proceedings regularly.
- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.

(vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)