

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2061 of 2021

Rupal Rajaram Mohite	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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Mr. Vinod V. Kashid for the applicant.
Mrs.M.H. Mhatre, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 8th SEPTEMBER 2021

P.C:-

1 The applicant is charged as accused no.3 in the charge-sheet filed in C.R.No. 355 of 2020 registered on 16th November 2020. The charge is for the offence punishable under Section 302, 307, 326, 324, 323, 504, 506(2), 143, 147, 147, 149 of the IPC and Sections 37(1) and 135 of the Maharashtra Police Act.

The applicant seek his release on bail by claiming parity with co-accused Suraj being released on bail on 15th March 2021 and other co-accused Abhijeet, Aniket, Swapnil being released on bail by this Court on 26th April 2021.

2 With the assistance of the counsel for the applicant and the learned APP Mrs.Mhatre, I have perused the charge-sheet placed on record.

The FIR came to be registered on a complaint being instituted by the informant Kumar Mohan, stating that he is residing on the given address along with his brother Rohit, his sister and his parents. He referred to an altercation which took place on 15th November 2020 at 11.30 p.m between his cousin brother Suresh and accused Swapnil Jadhav on account of the some old differences. On 16th November 2020, it is alleged that the sister-in-law of Swapnil, Sonali started hurling abuses by arriving in front of his house and this was reported to him by his sister Bharati. At the same time, Sonali also narrated the incident to her brother Rohit and her husband Rupal (present applicant).

3 To revenge the said incident, it is alleged that Rohit Jadhav and the present applicant along with his friends Aniket, Abhijeet and Suraj Jadhav arrived in front of his house and Rohit assaulted him by means of a knife on his hand, head and stomach. When his father came to intervene, it is alleged that Rohit seriously injured him by stabbing in his stomach. It is further alleged that Rupal, Abhijeet, Aniket and Suraj, the other co-accused fell him to the ground, while Suraj and Aniket pinned him down, the applicant assaulted in his head by a slab. When people in the locality came to their rescue, the assailants fled away

from the spot.

The supplementary statement of the complainant came to be recorded on 30th November 2020, where he deviate from his earlier version and state that the present applicant assaulted him by means of a slab at the back side of his ear, whereas accused Aniket hit him by paver block in his head. Swapnil is said to have assaulted his father by iron rod in his head.

4 As far as the role assigned to the present applicant is concerned, an inconsistency has surfaced on record to the two statements.

As far as the deceased is concerned, the post mortem report in Column No.17 refer to four injuries and the cause of death is opined as shock and hemorrhage due to stab injury to abdomen. The complainant sustained the following injuries:-

- (i) CLW on right arm 4 x 0.5 x 5 cm
- (ii) CLW on left arm 3 x 0.5 cm
- (iii) Right temporal 5 x 0.5 cm

On being treated, he was discharged from the hospital in two days.

5 The charge do not allege that the applicant has caused injury to the deceased. As far as Suraj Jadhav who is alleged to have pinned the complainant on the ground along with Aniket, they are released on bail, considering the role attributed to them by this Court.

In the supplementary statement, Swapnil Jadhav is alleged to have hit the complainant by paver block and on consideration of his Bail Application, recording that his name is not mentioned in the FIR, but he is implicated in the supplementary statement, belatedly. He has also been released on bail by this Court by order dated 26th April 2021 along with co-accused Abhijeet and Aniket.

6 Reference is made to the CCTV footage which was recovered by panchnama dated 29th November 2020 and the persons seen in the CCTV footage are identified by witness Suvarna Waghmare. The inconsistency in the statement of the complainant about the role ascribed to him firstly in the FIR and then in the supplementary statement, make him entitled for being released on bail, particularly, when as far as assault on the deceased is concerned, it is only when the prosecution establish the common object being shared by the present applicant, he will be roped in for the offence punishable under Section 302 of the IPC. At present, he is alleged to have caused injury to the complainant and therefore, charged under Section 307 of the IPC. Learned counsel for the applicant request for provisional release of the applicant on cash bail on account of the financial difficulty faced by him in the wake of the illness of his mother. Hence, the following order :-

ORDER

- (a) The Applicant – Rupal Rajaram Mohite in connection with C.R.No.355 of 2020 registered with Kherwadi Police Station shall be released on provisional cash bail on furnishing P.R. bond to the extent of Rs.30,000/- with one or two sureties of the like amount.
- (b) The Applicant is provisionally released on cash bail for a period of four weeks.
- (c) 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.
- (d) The Applicant shall make himself available as and when required by the Investigating Officer.

7. The Application is allowed in the aforestated terms.

SMT. BHARATI DANGRE, J