

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

CRIMINAL BAIL APPLICATION NO.2425 OF 2021

1. Maruti Dilip Kachare	
2. Bharat Dilip Kachare	...Applicants
Versus	
The State of Maharashtra	...Respondent

Mr. Anand S. Patil for the Applicants

Ms. P. P. Shinde, A.P.P for the Respondent–State

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 17th SEPTEMBER 2021

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicants seek their enlargement on bail in connection with C.R. No. 12/2021 registered with the Karveer Police Station, Kolhapur, for the alleged offences punishable under Sections 302, 307, 324, 504, 506, r/w 34 of the Indian Penal Code.

3 Learned counsel for the applicants submits that admittedly, the applicant had no inimical relations with the deceased-Akash Vanjole. He

submits that according to the prosecution, when Akash Vanjole (deceased) tried to intervene in the quarrel between Dattatraya Phonde (complainant) on one side and the applicants and Suresh Kachare, on the other, Suresh Kachare (original accused No.3) assaulted Akash Vanjole with a koyta, on his neck, as a result of which, Akash Vanjole succumbed to the said injury. He submits that admittedly, the applicants are not alleged to have caused any injury to Akash Vanjole. He submits that even otherwise, the applicants had no concern with Akash Vanjole and as such, had no motive to assault him, much less, injure him. He submits that in the said incident, even the applicants have sustained injuries.

4 Learned A.P.P opposes the application. She, however, does not dispute the fact, that as far as the assault on Akash Vanjole (deceased) is concerned, no overt act is attributed to the applicants and that the fatal blow on Akash was given by co-accused-Suresh Kachare.

5 Perused the papers. According to the first informant-Dattatraya Phonde, there was a quarrel on 2nd January 2021 at about 9:30 a.m between Subhash Phonde (first informant's brother) and the applicant No. 2-Bharat, on account of throwing waste food in the drainage, pursuant to which, NCs were registered by both sides, as against each other.

6 It is further alleged by the first informant that on 6th January 2021 at about 1:30 to 2:00 p.m, when he and his colleague Akash Masal were waiting in the vegetable market, the applicant No.2 and Suresh were also there and that they were staring at him and grinning. According to the informant, he left the spot on seeing the said accused. He has further stated that at about 11:30 p.m, when he was proceeding towards a medical shop, he met Akash Vanjole (deceased); that they both came towards his house (informant's house) on a motorcycle; that at that time, the applicants alongwith co-accused-Akash were present with koyta, knife; that the said accused came towards him and hurled abuses and threatened to kill him; that applicant No. 2-Bharat Kachare attempted to assault him with a koyta, however, he missed the blow; that applicant No.1-Maruti Kachare assaulted him with a koyta, as a result of which, he sustained injury on the finger of his right hand. The accused No. 3-Suresh is stated to have also given a blow with the handle of the koyta on the informant's head, as a result of which, he fell on the ground. According to the informant, on hearing the quarrel, his family members came and tried to separate them. It is further stated that the accused No.3-Suresh threatened the persons who tried to intervene and asked them not to intervene. It is further alleged that when Akash intervened in the quarrel, accused No.3-Suresh inflicted a blow on

his neck, as a result of which, Akash sustained a grievous injury and succumbed to the same.

7 As far as the applicants are concerned, they have admittedly, not assaulted Akash Vanjole. Infact, as is evident from the facts, Akash was not the applicants' target. As far as the informant is concerned, he has sustained a simple injury on his finger. The said injury caused by the applicant No. 2 is stated to be a simple injury, caused by a hard and sharp weapon. The said injury certificate is at page 29 of the application. Admittedly, no overt act is attributed to the applicants in the assault on Akash. The applicant No. 1 is not alleged to have even assaulted the informant. Investigation is complete and charge-sheet is filed. The applicants are in custody since 7th January 2021 and as such, having regard to the applicants' role, their further detention is not warranted. However, having regard to the relations between the parties i.e. between the complainant and the applicants, it would be appropriate to impose strict conditions whilst releasing them on bail.

8 Accordingly, the application is allowed and the applicants are enlarged on bail on the following terms and conditions :

ORDER

(i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- each, with one or two sureties in the like amount;

(ii) The applicants shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m., till the framing of charge;

(iii) The applicants, until further orders, will not enter the jurisdiction of Karveer Police Station, except for the purpose of attending the police station;

(iv) The applicants shall inform their latest places of residence and mobile contact numbers immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicants to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(vi) The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants' bail.

9 The application is accordingly disposed of.

10 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

11 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.