

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

CRIMINAL BAIL APPLICATION NO.1119 OF 2020

Sukhdev Suresh Kunjir

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr.Satyavrat Joshi Advocate for Applicant.
- Mr.H.J. Dedhia, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 11th MARCH, 2021

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.900/2020 registered with Hadapsar Police Station, Pune, under sections 302, 120-B, 143, 147, 149, 212 of the Indian Penal Code and under section 4 and 25 of the Indian Arms Act and under section 4 (25) of Arms Act and under section 37 (1), 135 of the Maharashtra Police Act.

2. The prosecution story is about commission of murder of one Shoaib Majjid Shaikh. The offence was committed at

10.30 p.m. on 22/05/2020. The allegations are that the deceased Shoaib in the past had tried to commit murder of one Jeevan Gangaram Kamble and therefore Jeevan was angry with him. He entered into conspiracy with others including the present Applicant. On the date of incident Shoaib was travelling on a two wheeler with the first informant Nilesh Bhausahab Memane and eyewitness Suraj Bhandari @ Gotya Sontale. They were intercepted by an Accent car. Shoaib fell down. He got up and tried to run. He was chased by Jeevan and his associates. He was assaulted with sickle and with sword. He succumbed to his injuries. The FIR was lodged. The allegations against the present Applicant are that after the incident the accused came to the Applicant's hotel, stayed there and then went away.

3. Heard Mr.Satyavrat Joshi, learned counsel for the Applicant and Mr.H.J. Dedhia, learned APP for the State.
4. Mr.Joshi, learned counsel for the Applicant submitted that there is absolutely no material against the present

Applicant. There is no recovery at his instance. There is no evidence of any conspiracy. There is no independent evidence, which is admissible. The Applicant is sought to be roped in only on the basis of inadmissible portion of the statement recorded u/s 27 of the Evidence Act and on conjectures and surmises.

5. Learned APP opposed this application. He submitted that the offence is serious. There are CDRs showing that the Applicant was in touch with others.

6. I have considered these submissions and with the assistance of both the learned counsel I have perused the charge-sheet. There are 4-5 eyewitnesses to the incident. FIR itself was lodged by eyewitness Nilesh Memane who had accompanied Shoaib. He was travelling with Shoaib on his two wheeler. He has stated that Jeevan and his associates got down from Accent car, chased Shoaib and assaulted him. Similarly statement of other eyewitness namely Suraj Bhandari @ Gotya Sontale shows that he has named Jeevan, Pravin Varpe, Ajit Shinde. He has not named other associates. There is one more

eyewitness Pravin Mahavir Janrao. He has named Jeevan and Pravin Varpe. He has not named other associates. No test identification parade was held. At this stage, there is nothing to show that the Applicant was at the spot or had taken part in committing actual assault on the deceased.

7. The cause of death mentioned in post-mortem notes is 'Hemorrhagic shock due to multiple chop injuries'. The post-mortem notes show that there were 32 incised wounds on the deceased. Therefore undoubtedly offence is serious. But there is hardly any material against the present Applicant. There is no material even to show that the assailants after committing the assault, went to the Applicant's hotel. No statements of the employees of the hotel are recorded. Therefore at this stage, there is no admissible piece of evidence showing Applicant's involvement in the crime. The CDR also does not unerringly point to the only possibility of the Applicant having entered in any conspiracy with the main accused Jeevan.

8. In this view of the matter. The Applicant deserves to be released on bail. At this stage, learned APP submitted that he has antecedents, therefore stringent conditions may be imposed.
9. Hence, the following order :

ORDER

- (i) In connection with C.R.No.900/2020 registered with Hadapsar 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 Applicant is directed to attend the concerned police station once in every fortnight for a period of one year from today.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)