

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1180 OF 2020

1. Sanket Manik Gaikwad
2. Rushikesh Maruti Gaikwad
3. Sachin Kailas Gaikwad
4. Kunal Sharad Gaikwad .. Applicants

Vs.

The State of Maharashtra .. Respondent

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Mr. Prashant M. Patil for the Applicants.

Ms. M.M. Deshmukh, A.P.P. for the State.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 07TH JANUARY, 2021.

P.C:-

1. There are four Applicants before this Court, who seek their release on bail, on being charge-sheeted for the offences punishable under Sections 302, 307, 323, 324, 326, 143, 147, 148, 149, 504 and 506 of the IPC and under Section 4(25) of the Arms Act.

2. The submission of learned counsel for the Applicants is to the effect that no role has been attributed to the Applicants before the Court as the deceased Bhimaji Gaikwad succumbed to head injury which he received in the incident and, even as per the case of the prosecution, the Applicants are not attributed the said injury. He also relied on the orders passed in respect of the other accused persons, who have been released on bail and attributed a similar role by the Complainant in the complaint.

3. The case of the prosecution is to the effect that on 31/05/2020, an altercation took place and, as stated by the Complainant - Kumar Ramesh Gaikwad, while he was standing near his house and the children of his cousin brother were playing alongside, accused Ajit Lahanu Gaikwad and Sachin Kailash Gaikwad rode on a Pulsar bike rashly and at high speed and when he was intercepted and advised not to drive rashly, the accused reacted by questioning the authority of the Complainant and started verbally abusing him. Accused Ajit Gaikwad immediately took out his phone and called his family members and the people in his neighbourhood. At that time, some accused persons arrived at the spot. Attempt was made on the part of the Complainant and his family to intercept the quarrel. At that relevant time, accused Pravin Gaikwad arrived at the spot in his four wheeler accompanied by Swapnil Gaikwad. It is then alleged by the complainant that Lahanu Gaikwad assaulted Ramesh Gaikwad and

his cousin brother Bhimaji Gaikwad by means of wooden rods and iron rods by hitting him on his head. Kiran Gaikwad is alleged to have assaulted Akshay Gaikwad by means of a sickle whereas Pravin Gaikwad is alleged to have assaulted Aarti Gaikwad and Satish Gaikwad by means of an iron rod. When the Complainant tried to intervene, it is alleged that Lahanu Gaikwad assaulted him on his right shoulder by means of a rod. The Complainant then named several other accused persons which includes the present Applicants Sanket Gaikwad, Rushikesh Gaikwad, Kunal Gaikwad as the persons, who had gathered a crowd and assaulted by means of sticks, stones, iron rods and caused injury to Maruti Gaikwad, Ramesh Gaikwad, Kamal Lamkhade, Shoba Gaikwad, Sadana Gaikwad. Thereafter, the incident was reported to the Police Station and the investigating machinery was set into motion.

4. The postmortem report of the deceased Bhimaji Gaikwad revealed *“contused lacerated wound over right fronto-parieto-temporal region measuring about 25 cm x 1.5 cm with 22 interrupted simple sutures in situ”*. The cause of death has been opined to be *“Cardio-respiratory arrest due to massive intracranial and subdural hemorrhage due to severe head injury”*. The postmortem report, therefore, reflects single head injury and the death is attributed on account of the said injury. No fracture is noted on any part of the body but on internal examination, multiple fractures over right fronto-parieto-temporal region are

noted in column No.19.

5. As far as the assault on Bhimaji Gaikwad is concerned, it is specifically attributed to Lahanu Gaikwad. Pertinent to note that there are 27 accused persons and some of the accused persons are attributed specific role of assaulting the members of the family of the Complainant. However, a general statement has been made in respect of other accused persons including the Applicant Sanket Gaikwad, Kunal Gaikwad and Rushikesh Gaikwad as the persons who had gathered and assaulted by means of stones, wooden rods and iron rods but there is no specific role assigned as to who assaulted whom. A general cumulative statement is made that the named accused persons assaulted the named injured persons. As far as Sachin Gaikwad is concerned, he is not clubbed with other persons by the Complainant by attributing the role but he is the person who arrived at the spot on a motorcycle along with Ajit Gaikwad and it is alleged that the said vehicle was driven rashly and this is the cause for the entire incident.

6. It is, no doubt, true that the charge-sheet has also invoked Sections 147, 148 and 149 of the IPC and, at the time of trial, the present Applicants can be tried for the offences punishable under Sections 302 and 307 of the IPC. However, this will, of-course, be determined at the time of trial and at the time when the prosecution tenders its evidence.

7. The other accused persons who had been attributed a similar general role including Naresh Gaikwad, Sampat Gaikwad, Santaram Gaikwad, Sandeep Gaikwad, Eknath Gaikwad and Subhash Gaikwad have been released on regular bail by the Sessions Court by observing that no specific role is attributed to them in the entire incident and it has been held that the entire family members have been roped in. There is no reason why the present four Applicants are not entitled for similar treatment. In view of the fact that the investigation is complete, the Applicants are held entitled for bail. Hence, the following order:

:ORDER:

- (a) The Applicants – (1) Sanket Manik Gaikwad, (2) Rushikesh Maruti Gaikwad, (3) Sachin Kailas Gaikwad and (4) Kunal Sharad Gaikwad shall be released on bail in C.R. No.236 of 2020 registered with Khed Police Station, District Pune on executing P.R. bond to the extent of Rs.25,000/- each and furnishing one or two sureties of the like amount.
- (b) The Applicants 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 Applicants shall mark their attendance before the Sessions Court where the trial is pending once in two months and attend to the trial regularly when it proceeds unless exempted by the Trial Court.

8. The Application is allowed in the aforestated terms.

9. 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.