

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

CRIMINAL BAIL APPLICATION NO. 1428 OF 2020

Sahil Prakash Mane	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Sachin Deokar, for the applicant.
Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

**CORAM :SARANG V. KOTWAL, J.
DATE : 17th MARCH, 2021**

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. 15 of 2020 registered at Vishrantwadi Police Station, Pune, under sections 302,, 323, 504, 506, 143, 147 read with Section 149 of the Indian Penal Code. The applicant was arrested on 22/1/2020 and since then he is in custody.

2. Heard Mr. Sachin Deokar, learned counsel for the applicant and Ms. Pallavi Dabholkar, learned APP for the State.

3. The prosecution case is about commission of murder of

one Sagar Bhalerao. The incident had occurred in the mid night of 21/1/2020 and 22/1/2020. The FIR is lodged by Sagar's brother Shubham. He has stated that at around 12. 50 a.m. in the night Sagar, his friend Rahul Saroj and Sangappa Bagale came home. Sagar had suffered injuries on his head. His clothes were torn. While drinking water, Sagar told the informant and others that he was assaulted by Abhaya, Pritya Jagdale, Sanni Patil, Pawan and the present applicant with wooden sticks and chain. Sagar was taken to the hospital but his situation worsened and he was declared dead in the hospital. On this basis the FIR was lodged and the applicant was arrested.

4. Learned Counsel for the applicant submitted that the statements of eye witnesses shows that the applicant had not instigated anybody else to commit this offence. He was not involved with actual quarrels between others and the deceased. The applicant had not given the fatal blow. He had not used any weapon. He had not assaulted on any vital part of the deceased. Shri Deokar submitted that the applicant is only 18 years of age

and therefore, considering all these factors, his case may be treated sympathetically.

5. Learned APP opposed this application and produced papers of investigation before the Court. The charge-sheet is already filed which is annexed to this application. However, the application does not contain post mortem notes. She submitted that the deceased was brutally assaulted and therefore, leniency should not be shown to the present applicant.

6. I have considered these submissions and with the assistance of learned Counsel, I have perused the charge-sheet as well as post mortem notes. The post mortem notes show that the deceased had suffered 13 injuries. Most of them were in the nature of abrasions and contusions. The cause of death was mentioned as 'head injury'.

7. The prosecution case is based on the statements of two eye witnesses Sangappa and Rahul Saroj. Their statements are

recorded on 23/1/2020. Both of them have given consistent statements. According to their story, on 21/1/2020, at about 11.30 a.m. the deceased and these two eye witnesses were returning home. At that time, Pritya Jagdale, Pawan Nalawade, Sanni Patil and Prajwal Nikam were seen going on their two wheelers. Sagar gave them a call. All these accused took offence. They called their friends. While Sagar and his friends had reached Ganpati Chowk, all these four persons and their friends including the present applicant were waiting for them. Accused Tambe straight away gave blow with iron chain on the head of the deceased. Pritam Jagdale gave blows with wooden bamboo, Sanni Patil used wooden stick. It is alleged that the present applicant also assaulted Sagar with kicks and fist blows. Assault continued. His friends tried to save him but they were kept away by the accused. Sagar tried to run away. He was chased and again assaulted. Family of Sagar was informed. They took him to the hospital wherein he was declared dead.

8. These statements show that initially the quarrel was

between the four other accused and Sagar. The applicant had nothing to do with that quarrel. In the second part of the incident, these quarrel took place between deceased and others including the present applicant. There again intention did not appear to be to commit murder of Sagar. They had not carried any deadly weapons. There are allegations that one of them assaulted with a chain on his head and one of them used wooden stick which was lying nearby.

9. The only allegation against the present applicant is that he assaulted the deceased with kick and fist blows. According to FIR, the deceased was taken home before being taken to the hospital. He was in a position to walk and drink water. Therefore, from the narration it appears that the object was not to commit his murder. At the highest object can be said to cause grievous injury to the deceased. The applicant is only 18 years of age. He is not attributed the main role. He has not used any weapon. All these circumstances can be considered sympathetically for granting of bail to the present applicant. He is already in custody since

21/1/2020. The investigation is over. Therefore, he can be granted bail.

10. Hence the following order.

ORDER

- (i) In connection with C.R. No. 15 of 2020 registered with Vishrantwadi 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 application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)