

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1460 OF 2020

YOGESHKUMAR DEVIDAS TAYDE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.A.M.Saraogi i/b. Mr.Vaibhav Ugle, Advocate for the Applicant.

Mr.A.A.Palkar, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

**RESERVED ON : 6th DECEMBER 2021
PRONOUNCED ON : 15th DECEMBER 2021**

P.C. :

1 The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in Crime No.405 of 2019 registered with Police Station Khadki, Pune, for offences punishable under Section 302 of the Indian Penal Code (IPC), under Section 4(25) of the Arms Act and under Section 37(1) and 135 of the Maharashtra Police Act.

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2 It is the case of prosecution that at the relevant time informant along with her in-laws and husband was residing in Flat No.12, 2nd floor, Kundan Kushalnagar Society, Bopdi, Pune. Flat No.15 also belongs to them. informant's father-in-law, namely, deceased Balkrishna Malayya Narsu, after retirement used to do money transactions from Flat No.15.

3 On 17th December 2019, one Aashish Sarode of 2nd Floor of the said building informed her that some sound of crying was emanating from Flat No.15 and therefore, informant and her mother-in-law rushed there. The said Flat No.15 was locked from inside and the deceased was shouting "नको सोड् मला, सोड्, वाचवा मला, वाचवा". Informant and her mother-in-law got frightened and sought help of the neighbours from the society. Around seven members of the society named in the First Information Report (FIR) gathered and tried to break open the door. In that attempt, they were able to make a big hole in the door. When the informant and others peeped through the hole they found applicant, who was a regular visitor, was assaulting

the deceased by means of a knife. As the door was locked from inside they could not do anything. After the police came, the door was somehow opened and the deceased was found lying in a pool of blood. So also the applicant was found injured. The deceased was rushed to hospital where the doctor before admission declared him to be dead. Informant accordingly lodged the report.

4 Mr.A.M.Saraogi, learned counsel for the applicant, submits that both the applicant and deceased were found in an injured condition. The possibility of applicant exercising right of private defence cannot be ruled out. There is discrepancy in between map/sketch of place of occurrence and the spot panchnama. The investigation is completed. No antecedents are forthcoming. In such circumstances, the applicant deserves to be enlarged on bail, argued learned counsel.

5 Mr.Ameet Palkar, learned APP, on the other hand, vehemently opposed the submissions and straightaway invited

my attention to the findings of postmortem report where as many as 17 stab and incised wounds were inflicted on the deceased by means of a knife. This in itself negates the theory of self defence. As against this, the learned APP invited my attention to the injury certificate pertaining to the applicant and pointed out that he had sustained only four injuries in comparison to the fatal injuries sustained by the deceased. Then there are statements of eye witnesses. Having regard to the brutal manner in which the deceased was assaulted, the applicant does not deserve to be enlarged on bail, argued learned APP.

6 Perused the investigation papers. FIR itself shows that the applicant and others had seen through the hole in the door that the applicant was assaulting the deceased by means of a knife and when all of them including the police entered into the room, they found the deceased lying in a pool of blood. The applicant had also sustained injuries.

7 Statement of Manishkumar Shirishkumar Basu, who is one of the neighbours and was present inside the room, states that when they entered inside the room, they found the deceased lying in a pool of blood in the hall and the applicant was also lying in an injured condition near teapoy. Similar is the statement of Ajinkya Prakash Salunkhe. Both these statements get corroboration from the sketch/map of the place of occurrence. Even the spot panchnama narrates the same situation.

8 Column No.17 of the postmortem report shows as many as 17 stab and incised injuries found on the person of the deceased and the opinion as to the cause of death is “death due to multiple stab injuries.” The Spot panchnama also shows that a knife was also lying near the body of the deceased. As against this, there is injury certificate pertaining to applicant as well which shows that he had also suffered four injuries. As far as the theory of self defence placed before me by the learned counsel for the applicant is concerned, apparently, having regard to the

nature of injuries sustained by the deceased and that of the applicant, the same does not persuade me to accept it plainly. Even otherwise, this will have to be assessed at the time of trial by the learned trial Court. The fact remains that there were 17 stab and incised wounds caused by means of a knife by the applicant and that in itself is an indicator of brutality on the part of the applicant.

9 Having regard to the material on record, I am not inclined to allow the application. Hence, the following order :

ORDER

Application is rejected.

(V. G. BISHT, J.)