

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3073 OF 2021

BALAJI TATYA KALE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Debajyoti Talukdar, Advocate for the Applicant.

Mr.H.J.Dedhia, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

RESERVED ON : 18th NOVEMBER 2021
PRONOUNCED ON : 29th NOVEMBER 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.907 of 2020 registered with Police Station Hadapsar, Pune, for offences punishable under Section 302, 120(B), 143, 147, 148, 149 of the Indian Penal Code (IPC), Sections 37(1) and 135 of the Maharashtra Police Act and Section 4(25) of Arms Act.

AVK

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2 Basavraj Jaibheem Kamble (since deceased) was brother of informant. On 26th May 2020, according to the prosecution, some unknown person for unknown reason assaulted deceased by means of sharp weapon and smashed his head by means of stone and thus killed him. Accordingly, informant lodged the report.

3 During the course of investigation it revealed that the applicant along with other accused hatched conspiracy to kill the deceased as deceased was responsible for the murder of one Hemant Naiknaware.

4 Mr.Debajyoti Talukdar, learned counsel for the applicant, submits that the First Information Report (FIR) was against unknown person. There is no recovery at the instance of applicant nor any Test Identification Parade is carried out in respect of the applicant. There is absolutely no evidence against the applicant. No criminal antecedents are forthcoming. For all these reasons, the applicant deserves to be enlarged on bail.

5 Mr.Dedhia, learned APP, on the other hand, opposed the submissions by contending that having regard to the nature of offence, the application does not merit consideration and needs to be rejected.

6 Perused the investigation papers, FIR nowhere shows the name of the present applicant and is rather against some unknown person. I have also gone through the statements of all the prosecution witnesses. Their statements do not show the involvement of the applicant in any manner. The only statement of witness namely Virendra Balkrishna Tilekar shows that he had seen one person by name Metkari, resident of Ganganagar fleeing from the spot after throwing the weapons.

7 In view of above, I am inclined to allow the application. Hence, I pass the following order :

ORDER

- (i) Applicant – Balaji Tatya Kale shall be released on bail in
Crime No.907 of 2020 registered with Police Station

Hadapsar, Pune,, on his executing P.R.Bond in the sum of Rs.20,000/- with one or two sureties in like amount.

- (ii) Bail before the trial Court.
- (iii) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (iv) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.
- (v) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)