

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**BAIL APPLICATION NO.3607 OF 2021**

**KARAN JALINDAR BHOLE**

**)...APPLICANT**

**V/s.**

**THE STATE OF MAHARASHTRA**

**)...RESPONDENT**

Mr.Piyush Toshnival, Advocate for the Applicant.

Smt.P. P. Shinde, APP for the Respondent – State.

**CORAM : V. G. BISHT, J.**

**RESERVED ON : 6<sup>th</sup> DECEMBER 2021  
PRONOUNCED ON : 16<sup>th</sup> 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.79 of 2021 registered with Police Station Shirur, Pune, for offences punishable under Sections 302, 324, 201 of the Indian Penal Code (IPC).

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2            Applicant is the son of maternal uncle of informant's deceased husband and also a neighbour. Two years prior to the incident, the deceased had given handloan of Rs.2 lacs to the father of applicant which was not repaid till date. On this count a verbal altercation had taken place in the past and since then both of them were not on visiting terms with each other.

3            The prosecution alleges that on 5<sup>th</sup> February 2021, at about 3.30 p.m., on account of a quarrel between the kids and keeping in mind the grudge, applicant assaulted the deceased firstly by means of cable wire and then brought a knife from the house and stabbed the deceased 2/3 times. The informant, accordingly, lodged the First Information Report (FIR). It appears that during the course of treatment, the injured succumbed to the injuries.

4            Mr.Piyush Toshnival, learned counsel for the applicant, submits that the present case is of grave and sudden provocation. It was not a pre-planned attack. In such

circumstances, Section 302 of the IPC may not apply to the case in hand. The learned counsel further submits that the dispute had taken place on account of transaction of monies. There is no Test Identification Parade. There is also no recovery of weapon at the instance of the applicant. Moreover, there are no antecedents. Investigation is over and therefore custody of applicant is not necessary.

5           Smt.P. P. Shinde, learned APP, on the other hand, vehemently submitted that there was no necessity of Test Identification Parade in as much as the applicant is known to the informant and others. The learned APP also invited my attention to postmortem report and pointed out the number of stab injuries sustained by the deceased and therefore, it cannot be said that the assault was at a spur of moment or without any premeditation. There being no merit in the application, the same is liable to be rejected.

6           The question of Test Identification Parade is out of significance, in as much as, the applicant is a neighbour of the informant and is known to her and other neighbouring witnesses.

7           The informant is also an eye witness and she has clearly stated in her FIR that the applicant first assaulted the deceased by means of cable wire and then brought a knife from his house and stabbed the deceased in the abdomen 2/3 times.

8           Similar is the statement of Seema Dada Sonawane. She also states that she had seen the incident in which the applicant had first assaulted the deceased by means of cable wire and then brought a knife from his house and with the said knife stabbed the deceased in his abdomen and thereafter on chest and left shoulder.

9           Similar is the statement of child witness, namely, Kartik Sachin Sonawane and that of Tai Bhau Sonawane.

10           Column No.17 of the postmortem report also shows that there were 8 injuries of which injury nos.3, 4, 5 and 6 were on abdominal part of the deceased whereas the injury nos.1 and 2 i.e. contused abrasion were on the left shoulder. The cause of death given by the Autopsy Surgeon was “complications in an operated case of stab injuries”.

11           Spot panchnama shows that knife with blood stains was seized from the place of occurrence.

12           Having regard to the nature of injuries and as also the statement of eye witnesses, there is prima facie involvement of applicant in the offence. Whether the incident was pre-planned or not and whether it would fall within the ambit of Section 302 of the IPC or not, is for the trial Court to decide at the time of the trial. As of now, I am not prepared to accept the point canvassed by the learned counsel for the applicant.

13            In view of above, I do not find any merit in the application. Hence, the following order :

**ORDER**

Application is rejected.

**(V. G. BISHT, J.)**