

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

BAIL APPLICATION NO.2359 OF 2019

Rahul @ Kandi Ramsahay Yadav

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Mr. Karl Rustomkhan i/b. Mr. Rahul Arote for the Applicant.

Mr. S.V. Gavand, APP for Respondent-State.

Mr. Girish Bane, PI, Vartak Nagar Police station present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 15th NOVEMBER, 2021.

P.C.:-

This is an application under Section 439 of the Code of Criminal Procedure, 1973 filed by the aforesaid Applicant, who is facing trial in Sessions Case No.151 of 2018 pending before Sessions Court, Thane for offences under Sections 201, 302, 307, 324 r/w. 34 of the IPC.

2. The case of the prosecution in brief is that on 06/11/2017 the Applicant alongwith other co-accused in furtherance of common intention caused death of Tarsem Singh @ Bobby and attempted to cause death of Ajay Singh.

3. Heard Mr. Karl Rustomkhan, learned counsel for the Applicant. He submits that the material on record does not prima facie

indicate that the Applicant had inflicted any injury on the deceased or on the injured Ajay Singh. He submits that the Applicant is in custody since 2017 and considering the nature of accusations levelled against the Applicant and the evidence in support thereof, he be relieved on bail.

4. Mr. S.V. Gavand, learned APP states that the statements of the injured and the other eye witnesses prima facie prove that the Applicant was not only present at the place of incident but he was actively involved in the incident. He submits that the gravity of offence does not justify grant of bail.

5. Perused the records and considered the submissions advanced by the learned counsel for the respective parties.

6. The FIR lodged by the injured -Ajay Singh prima facie indicates that he and Tarsem Singh @ Bobby were childhood friends and Diksha was a common friend of the Complainant and Tarsem Singh as well as the co-accused- Shivam and the Applicant. She informed the Complainant and Tarsem Singh that the Applicant and the co-accused Shivam were bad mouthing them.

7. On 6/11/2017 at 7 p.m. Tarsem Singh told the Complainant that the co-accused Shivam had called him to the Juice center near Dyandeo School and requested the Complainant to accompany him. When the Complainant and Tarsem Singh went to the Juice Center they saw the Applicant and the co-accused-Shivam and another unknown person at the place of the incident. The FIR prima facie indicates that the Applicant and the co-accused were armed with knives. The co-accused inflicted injury on the Complainant whereas the Applicant and the other unknown person inflicted injuries on Tarsem Singh @ Bobby. Said Tarsem Singh succumbed to the injuries.

8. The post mortem report indicates that Tarsem Singh had sustained 11 injuries in the nature of stab injuries, incised wounds, etc. The doctor has opined that his death was due to hemorrhagic shock due to injuries to the vital organs.

9. Thus, the material on record prima facie indicates that the Applicant was not only present at the place of the incident but he was armed with knife and had actually participated in the incident. Considering the gravity of the offence and the material in support thereof, I am not inclined to release the Applicant on bail. Hence, the application is dismissed.

10. The Applicant is in custody since 2017. Learned APP has stated that the trial has already commenced and the injured and the eye witnesses have been examined and that only pancha witnesses remain to be examined. Hence, the learned Judge is directed to conclude the trial as expeditiously as possible and in any event within a period of 8 months from the date of receipt of copy of this order.

(SMT. ANUJA PRABHUDESSAI, J.)