

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

BAIL APPLICATION NO. 3508 OF 2019

Sanjay Mahendra Yadav ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Shyamrishi Pathak, Advocate for the Applicant.

Mr. R. M. Pethe, APP for the Respondent – State.

Mr. Londhe, (P.S.I.) Bhandup Police Station, Mumbai present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 14th JULY, 2021.

PER COURT:

1. This is an application for bail in C.R. No. 270 of 2018 registered with Bhandup Police Station, Mumbai for offences under Sections 302, 120-B r/w Section 34 of Indian Penal Code (for short “IPC”). The applicant was arrested on 26th July, 2018.

2. The first informant is the brother of deceased Sushil Verma. Deceased was studying in XIIth in Junior College at Bhandup. Information was received that Sushil was assaulted and taken to hospital. Sushil was in love with girl studying in same college. Friend of said girl Kajal learnt about it. He identified Sushil by collecting information and he was called from college and assaulted with sharp weapon.

3. The statement of another witness-Sachin Mishra, reveals that Rahul Jaiswar had pulled out a weapon from his pocket and assaulted Sushil 2-3 times with the said weapon, as a result of which, Sushil fell on the ground. There are several other witnesses who have corroborated the same. The post-mortem report shows that the deceased had sustained a stab injury over the left side of his chest of size 2.5 cm x 1 cm x 12 cm, 2 cm lateral to midline, 7 cm medial to left nipple, 7 cm below suprasternal notch as well as 2 CLWs. The cause of death is stated to be 'stab on chest'.

4. Learned advocate for the applicant submitted that the role attributed to the applicant is that he caught hands of the deceased. The applicant has not participated in the assault. Although one weapon was used in assaulting the victim, there is recovery of two weapons which were not blood stained. The co-accused Virendra Rajbhar was accompanying the accused No.1 had participated in the assault by fist blows. He is granted bail by Sessions Court. Other accused Nicky Rawat, Abhay Singh were also granted bail. The case of the applicant cannot be distinguished from co-accused who are granted bail. In fact the applicant's case is on better footing than the accused Virendra Rajbhar. The applicant is in custody from 26th July, 2018. Trial has not commenced. There is no charge of conspiracy.

5. Learned APP submitted that the victim had sustained serious injuries. Application for bail preferred by the co-accused Rahul Jaiswar has been rejected by this Court. The applicant and co-accused Rahul Jaiswar had preplanned the attack. The statements of witnesses indicate that both of them had visited shop for purchasing weapon. The offence is of serious nature. The role of the accused who were granted bail can be distinguished.

6. The victim was a college going boy aged about 19 years. The accused No.1 was allegedly in love with the girl named Kajal. The victim was also in love with same girl. Accused No.1 learnt about it. The accused enquired with students to establish identity of deceased. He was called from college and assaulted with sharp weapon. Knife is recovered from applicant. The applicant showed the place from where knives were purchased. Statement of Kajal Rai mentions that she was in relationship with accused No.1 Rahul Jaiswar. He was objecting to her friendship with deceased. On 25th July, 2018, she saw Rahul and applicant together. On 26th July, 2018, Rahul met her, while she was on the way to her college. He enquired with her, where she had gone with friends on previous day. He told her not to attend college on that day. He indicated something to be done with Sushil Verma. Rahul gave call to applicant and told him to come with friends. Subsequently, she learnt that Sushil is

murdered. Statements of witnesses mention that applicant and Rahul took victim forcefully from precincts of college. Sachin Mishra has stated that Raul, applicant and Virendra dragged victim from college. Applicant caught hands of victim. Rahul gave blows by weapon. Rahul Sonar has stated that applicant and accused not met him. Applicant enquired about availability of chopper. They went to shop. Rahul and applicant told shopkeeper to show button knife. They purchased two knives. Thus, the applicant was aware about plan to kill victim. The applicant had participated in the offence. The role of co-accused Virendra Rajbhar, who has been granted bail can be distinguished. The incident is of serious nature. The victim was young boy. He was called from the college after being identified by the accused and dragged outside the premises of the college and assaulted with weapon by accused No.1. The manner in which crime was committed shows the cruel and aggressive attitude of accused. The applicant has supported accused No.1. Considering these circumstances, no case for grant of bail is made out.

ORDER

- (i) Bail Application No. 3508 of 2019 is rejected and disposed of accordingly;
- (ii) Trial is expedited.

(PRAKASH D. NAIK, J.)