

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

931 BAIL APPLICATION NO.73 OF 2022

**ABDUL SALEEM MOHAMMED JABBAR
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Dhorde Vikram R.
APP for Respondents/State : Mrs. R.P. Gour
...

**CORAM : M.G. SEWLIKAR, J.
DATE : 2nd February, 2022**

PC.:-

Leave to amend prayer clause granted.

2. By this application, applicant is seeking his release on bail in connection with Crime No. 213/2021 registered with Himayatnagar Police Station, District Nanded under Section 302, 307, 109 read with Section 34 of the I.P.C.

3. Injured and the applicant are studying in the same coaching class i.e. Gangai Coaching Class. The injured Yash Mirase (since deceased), Vishwajeet Suryavanshi, Akash Dhole, Tejas Shinde and Shriniwas Mirase had formed one group. The other group consisted of Anuj Pawnekar, Karansingh Thakur. Both these groups did not see eye to eye with each other.

4. On the day of the incident that is on 11th September, 2021 at 12.15 pm, at Parmeshwar Temple injured slapped accused-Anuj Pawnekar. Yash Mirase also assaulted him. Accused-Om Rathod picked up Anuj and fell him down with force. Anuj Pawnekar got annoyed. He left the place on a motorcycle and came back with his friends i.e. applicant and accused Karansingh Thakur. Injured, deceased (Yash Mirase), Akash Dhole were trying to convince applicant and Karansingh Thakur not to quarrel amongst themselves. Soon thereafter accused-Anuj gave a push to deceased (Yash). Yash fell down. Soon thereafter Anuj Pawnekar fished out a knife from his pocket and aimed it at the abdomen of the injured. Injured warded it off but it landed on his waist on right side. Applicant was trying to push Anuj Pawnekar back. Anuj Pawnekar released himself from the grip of the applicant and stabbed in the chest of Yash Mirase. Anuj Pawnekar fled from the spot. Thereafter, applicant and injured-Akash Dhole were trying to hire an auto rickshaw but they could not do so as auto rickshaw driver was not there. Applicant offered to take deceased-Yash on his motorcycle to the hospital. Accordingly, applicant along with injured brought the deceased to Dr. Wankhade's hospital and from there to the Government Hospital. In the Government Hospital Yash Mirase was declared dead on arrival.

5. Learned counsel Shri Dhorde submits that these developments clearly indicate that applicant was one of the person who tried to save the life of the deceased-Yash Mirase. However, he has been implicated as an accused.

6. Learned APP Smt. Gour submits that record shows that there was a conspiracy between the applicant and the accused-Anuj and Karansingh Thakur to eliminate the injured and his other group members. She submits that there is sufficient evidence against the applicant.

7. Charge-sheet is filed. Injured Soham Chayal has himself given the statement before the police narrating all the above facts. These facts clearly indicate that the applicant was the person who offered to take the deceased-Yash Mirase to the hospital. This clearly shows that he was trying to save the life of the deceased Yash Mirase. Moreover, the facts narrated above clearly indicate that applicant was trying to prevent quarrel between the group of injured and the group of Anuj. He did not assault either the injured or deceased Yash Mirase. In this view of the matter applicant has no role to play in the alleged incident. I am, therefore, inclined to release the applicant on bail. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.15,000/- with one solvent

surety in the like amount, in connection with Crime No.213/2021 under Section 302, 307, 109 read with Section 34 of the I.P.C. with Himayatnagar Police Station, District Nanded on condition that he shall not tamper with the prosecution evidence.

- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]