

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

CRIMINAL BAIL APPLICATION NO. 1708 OF 2022

Amol Anandrao Patil	...Applicant
Versus	
State Of Maharashtra	...Respondent

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Mr. Satyavrat Joshi i/by Mr. Samay S. Pawar, Advocate for the Applicant.

Mr. N. B. Patil, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 10th OCTOBER, 2022

PER COURT:

1. The applicant is arrested in C.R. No.231 of 2021 registered with Kurlap police station, Sangli for offence punishable under Section 302 read with 34 of the Indian Penal Code.

2. The FIR was lodged on 06.12.2021 alleging that the deceased Ranjit Ramesh Patil was killed by the accused on account of his relationship with the wife of the accused. The applicant and his father were arrested. On completing investigation, charge-sheet is filed.

3. Learned advocate for the applicant submitted as follows:

- (i) The applicant has been falsely implicated in this case.
- (ii) The first informant is not eye witness to the incident.
- (iii) The prosecution is relying on the statement of Rangrao Bajirao Patil, who is the cousin of the deceased. He has allegedly witnessed the incident. He was present at the time of executing the inquest panchnama. He did not lodge FIR. His version is doubtful.
- (iv) The prosecution is relying on statement of Rafique Usman Shaikh recorded on 09.12.2021 and 05.01.2022. He has stated that deceased was assaulted by unknown person. Test identification parade was conducted on 30.12.2021. The news about arrest of the accused was published in the newspaper on 07.12.2021. Photographs of the accused were published in the newspaper. The said witness has identified the applicant. However, on account of publication of photographs prior to identification parade. The parade would vitiate.
- (v) The prosecution is relying on purported extra judicial confession of the applicant with wife. Such evidence cannot be accepted because it is privileged communication between husband and wife.

(vi) Motive for commission of crime is weak.

(vii) Deceased was harassing wife of applicant.

4. Learned APP submitted that there is sufficient evidence against the applicant. The version of Rangrao Patil and Rafique Shaikh cannot be disbelieved at this stage. Merely on the ground that photographs were published in the newspaper, it cannot be inferred that the witness had occasion to see the photographs and than identify accused. The victim was assaulted mercilessly, which is evident from the nature of injuries suffered by him.

5. I have perused the documents on record. The FIR is registered by Pravin Shankar Patil on 06.12.2021. He is not eye witness to the incident. However, he has named the applicants. According to him he learnt from the members of public that the accused had assaulted the deceased. The statement of wife of the applicant attributes motive to the applicant to commit crime. Weapon has been recovered at the instance of the applicant. Rangarao Patil has named applicant as assailant. On the ground that he did not lodge FIR, his version cannot be discarded. The applicant has been identified by the witness in the test identification

parade. The statement of Rafique Usman Shaikh was recorded on 09.01.2022. News report was published on 07.12.2021. If the said witness had occasion to see the photographs in the newspapers he would have named the assailants in his statement. At this stage, it is not possible to discard the material on record.

ORDER

Bail Application No. 1708 of 2022 is rejected and disposed off.

(PRAKASH D. NAIK, J.)