

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

CRIMINAL BAIL APPLICATION NO. 79 OF 2021

Shivaji Raghunath Mohite	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Shivaji K. Farakate for Applicant.
Mr. Makarand G. Patil, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 23rd FEBRUARY 2022**

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.35 of 2019 registered at Kalachowki police station, under sections 302, 307, 504, 506(2) of the Indian Penal Code (for short 'IPC') and under section 37(1)(a) and 137 of the Maharashtra Police Act.

2. Heard Shri. Shivaji Farakate, learned counsel for the applicant and Shri. Makarand Patil, learned APP for the State.

3. The prosecution story is reflected in the F.I.R. itself. It was lodged by one Vijay Salve. The informant had gone to a restaurant and bar at Cotton Green for consuming liquor. The

deceased in this case Kishor joined him. At around midnight, the applicant came to the bar. The deceased Kishor was knowing him and he introduced the applicant to the informant Vijay Salve. At 12.20a.m. the applicant asked for mobile phone from the deceased Kishor. Kishore refused. The applicant got angry. He threatened to commit murder of Kishor. The informant and the deceased Kishor left the bar immediately. Within a short time the applicant also came out. He was wielding knife. He held the deceased. The applicant threatened the people walking on the road. He was threatening the deceased to commit his murder. One truck was travelling on that road. The applicant deliberately pushed Kishor towards that truck. He fell down and the truck was driven over Kishor; because of that Kishor suffered grievous injuries and ultimately succumbed to his injuries. Before his death the F.I.R. was immediately lodged. The injured was taken to KEM hospital. Therefore, initially the offence was registered U/s.307 of IPC. Subsequently, section 302 of IPC was added.

4. Learned counsel for the applicant submitted that, there was no intention of the applicant to commit murder. The offence

took place at a spur of moment. Version of eye witnesses is not right. The eye witnesses have mentioned number of the truck as MH01-CR-6701. However, the truck owner and the driver were connected with the truck bearing No.MH01-CR-6707. According to learned counsel for the applicant, this discrepancy goes to the root of the matter and only to protect the truck driver and owner, police have falsely implicated the present applicant.

5. Learned APP opposed this application. He relied on versions of the eye witnesses. He has also submitted that the charges are already framed in this case.

6. I have considered these submissions and in particular I have perused the charge-sheet. There are many eye witnesses to the incident namely Girishchandra Mishra, Vinod Choudhary, Suresh Shetty, Harish Poojari, Mohd. Khan. Besides these eye witnesses, there are statements of truck owner Deepak Shah and truck driver Prakash Kirdat. The story of the eye witnesses is absolutely consistent. They have specifically stated that the applicant had deliberately pushed the deceased towards the truck. Even the truck driver's statement is similar to that effect.

Therefore, it does not matter if the eye witnesses have mentioned some different truck number in their supplementary statements. The important fact is that the deceased was pushed by the applicant towards the truck. The truck was driven over Kishor causing his death. There is overwhelming material against the present applicant in the form of direct evidence of eye witnesses. The applicant had deliberately committed this offence. Therefore, no case for bail is made out. The charges are already framed, therefore, the trial will take its own course.

7. The application is rejected.

(SARANG V. KOTWAL, J.)