

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.156 OF 2022

Sameer @ Nauti Dawalsahab Nadaf

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Satyavrat Joshi a/w. Mr. Nitesh Mohite i/b. Mr. Samay Pawar,
for the Applicant

Mr. A.A. Palkar, APP, for the State.

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CORAM : N. J. JAMADAR, J.

DATE : JUNE 27, 2022

P.C.:

1. The applicant who is arraigned in C.R.No. 24 of 2021 registered with Shirolu MIDC police station, Kolhapur for the offences punishable under sections 302 and 323 read with 34 of Indian Penal Code, 1860 has preferred this application to enlarge him on bail.

2. The prosecution case is as under:-

Aditya Bhikaji (the first informant) and his friends were sitting near Peer Balesahab Darga, Shirolu. One of their friend Sameer @ Nadaf came thereat 4.30 pm. The applicant and the co-accused Yogesh Sakhare were also consuming liquor at a distance from the first informant and his friends. The applicant asked the deceased to share the liquor and an altercation ensued leading to a scuffle. They were separated. However, the co-accused Yogesh

Sakhare again charged on the person of the deceased. The co-accused took out a knife and unleashed blows by means of knife on the stomach, face and back of the deceased Amit Naik. At that time, the applicant also allegedly assaulted the deceased. As the deceased sustained bleeding injuries, he was shifted to CPR Hospital, Kolhapur. However, he was declared dead.

3. The learned counsel for the applicant, submitted that the incident occurred at the spur of the moment. There was no intention to cause death. The applicant was unarmed. The allegations in the first information report as well as the narration of the incident in the statements of the eye witnesses, namely Shubham Gavhane, Dattatraya Bhakare, Ravi Gosavi and Dinesh Gosavi indicate that it was the co-accused who gave the blows by means of knife. Therefore, the applicant deserves to be enlarged on bail.

4. Learned APP resisted the prayer. It was submitted that the first informant and eye witnesses have stated that the applicant also assaulted the deceased. Though they have made such solitary assertions qua the applicant.

5. I have carefully perused the first information report as well as the statement of the witnesses. It is necessary to note that the incident occurred as two groups of persons were consuming liquor.

An altercation ensued over the demand to share liquor. None of the witnesses state that the applicant was armed with any weapon. On the other hand, the witnesses had simply asserted that while co-accused was inflicting blows by means of knife, the applicant also beat the deceased. The role attributed to the applicant is thus clearly distinguishable from that of the co-accused. The apprehension on the part of the prosecution can be taken care of by imposing conditions. I am, therefore, persuaded to exercise the discretion in favour of the applicant.

Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The applicant be released on bail in connection with C.R.No. 24 of 2021 registered with Shirolu MIDC police station, Kolhapur on furnishing a P.R bond in the sum of Rs. 25,000/- and one or two sureties in the like amount, to the satisfaction of the learned Additional Sessions Judge, Kolhapur.
- 3] The applicant shall regularly attend the proceedings before the learned Additional Sessions Judge.
- 4] The applicant shall furnish his residential address and contact details to the investigating officer, Shirolu MIDC police

station within a period of eight days from his release from prison and shall keep the police station updated about any change therein.

5] The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

6] The applicant shall mark his presence at Shirol MIDC police station on first Monday of every month in between 9 am to 10 am for a period of six months.

(N. J. JAMADAR, J.)