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

BAIL APPLICATION NO. 260 OF 2022

Sagar Ashok Satkar ... Applicant
Vs
The State of Maharashtra ... Respondent
...

Ms. Shubhangi Parulekar for Applicant
Mr. N.B. Patil, APP for the State

CORAM : SANDEEP K. SHINDE J.
DATE : 10th NOVEMBER, 2022.

PC. :

1. Heard learned counsel for the Applicant and the learned APP for the State.
2. Applicant seeks his enlargement on bail in connection with Crime No. 454 of 2020 dated 22nd July, 2020 registered with Vadgaon Maval Police Station for the offence punishable under Section 302 r/w. 34 of IPC and section 4(25) of the Indian Arms Act. The investigation is over and the final report has been filed.

3. It is prosecution case that, deceased Ghewarchand Parmar, had purchased a land from applicant's father before 25 years. However, , dispute was subsisting between Ghewarchand Parmar (deceased) and the Applicant over and in respect of area of the land. Prosecution case is, that on 22nd July, 2022, when the deceased with his, son was on the shop premises, applicant and one Bhaiyya Jadhav - juvenile in conflict with law, both armed with deadly weapons came on the shop premises. Whereafter, both mounted assault on the deceased with weapons and caused serious injuries to him. Gherwarchand succumbed to injuries. Son of the deceased reported the incident on 22nd July, 2020, attributing the role to the Applicant for causing serious injuries on the abdomen of the deceased with the knife. On the next day, his supplementary statement, attributed major role to Bhaiyya Jadhav (Juvenile in conflict with law). In the sense, son of deceased told police that the applicant inflicted injury on the left hand of the deceased; whereas, the co-accused Bhaiyya Jadhav inflicted injury on the

chest of the deceased. The learned counsel appearing for the Applicant would therefore, contend that since complainant and the eye witnesses said, co-accused (Juvenile) inflicted serious injury on the chest of the deceased, to which he succumbed, applicant deserves to be released on bail. To buttress the submissions, Learned counsel would rely on the corresponding injuries found and noted in the postmortem report.

4. Learned APP, on the other hand, contended, that, both, applicant and juvenile, were armed with deadly weapons and this fact itself shows, assault was preplanned and mounted in furtherance of common intention. Learned APP thus submitted, in the bail proceedings, acts and role attributed to applicant and co-accused or discerning it from the charge sheet shall matter not, once, common intention is apparent.

5. I have perused the charge sheet. Where-from it is obvious that, hostility between applicant and deceased grew over a period of time, concerning land dealing. Whereas juvenile in conflict with law, who allegedly inflicted lethal blow

on the chest of Gheverchand, had, no concern with the land dispute. However, the fact remains that both, applicant and co-accused came on spot, armed with the weapons. The evidence in no uncertain terms shows, both - in furtherance of common intention were directly responsible for injuries caused to Gheverchand. Although PM Report reveals, cause of death was due to chest injury allegedly caused by Juvenile-in conflict with law, , nevertheless, in view of section 34 of IPC, which is Rule of evidence, segregation of the acts done and committed by them in, furtherance of common intention is not required at least at this stage. In that view of the matter, offence being committed in furtherance of common intention, which is punishable with life imprisonment or death and having regarding to totality of the circumstances, application deserves no consideration. It is rejected.

(SANDEEP K. SHINDE, J.)