

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

CRIMINAL BAIL APPLICATION NO. 431 OF 2022

Krushna Prakash Tupe ...Applicant

Versus

State Of Maharashtra ...Respondent

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Mr. Kedar J. Patil a/w Sakshi S. Kadam, Advocate for the Applicant.

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

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CORAM : PRAKASH D. NAIK, J.

DATE : 21st OCTOBER, 2022

PC:

1. The applicant is arrested on 18th March 2021 in connection with C.R. No.75 of 2021 registered with Dahiwadi Police Station, Satara for offences punishable under Sections 143, 147, 148, 149, 302, 307, 323, 324, 326, 506 of the Indian Penal Code. The FIR is lodged by Satyawar Dhondiba Jadhav.

2. The case of the prosecution is that, the complainant has three brothers, namely Vilas Jadhav, Shivaji Jadhav and Krishna Jadhav. There is property dispute between complainant's family and his cousin Chandrakant Nathaji Jadhav. There was quarrel between

them in 2014. Offences are registered with Dahiwadi Police Station. Cases are in progress in Court. on 16th March 2021 at about 04:00 o'clock Chandrakant Nathaji Jadhav had parked the tractor carrying sand in front of chavadi of village. He was claiming that, he has contract of supply of sand. The complainant gave a call to Talathi and informed him that Chandrakant Jadhav is transporting sand during the day and claiming that, he has contract for that. On 17th March 2021 at about 10:30 am, Chandrakant Jadhav Deepak Vitthal Jadhav and three other persons confronted him. Name of one of them was Tupe. Chandrakant Jadhav abused him. He was assaulted with kick/fist blows and stones. The complainant informed about the said incident to his brothers Shivaji Jadhav, Krushna Jadhav and nephew Sagar @ Sambhaji Jadhav on phone and went home. After reaching home, he learned that, his brothers Vilas Jadhav, Shivaji Jadhav, nephew Sagar @ Sambhaji Jadhav, Pandurang @ Vishal Jadhav, Vishwas Jadhav, Samadhan Jadhav had gone to the house of Chandrakant Jadhav for questioning him about the incident. The complainant and his brother Krishna also proceeded towards house of Chandrakant Nathaji Jadhav. Vilas Jadhav, Shivaji Jadhav, Vishwas Jadhav, Sagar @ Sambhaji Jadhav, Pandurang @ Vishal Jadhav, Samadhan Jadhav and Chandrakant Jadhav, Suryakant Jadhav, Shashikant Jadhav, Deepak Jadhav and person name Mr.Tupe

were fighting with each other. Chandrakant Jadhav was holding axe, Deepak and Suryakant were having knife in their hand. They assaulted complainant's brother and nephew. The complainant and his brother Krishna Jadhav intervened in the fight. The accused assaulted the complainant and his brother with fist and kick blows. Vilas Jadhav, Shivaji Jadhav, Vishwas Jadhav, Pandurang Jadhav sustained injuries due to assault. Vilas Jadhav was unconscious due to injury on his abdomen. Shivaji Jadhav, Vishwas Jadhav and Pandurang Jadhav were taken to rural hospital at Dahiwadi for treatment. Vilas Jadhav was declared dead by Doctors at hospital. Vishwas Jadhav and Pandurang Jadhav were treated at the hospital. FIR was lodged against accused. On completing investigation, charge-sheet was filed.

3. The applicant preferred an application for bail before the Sessions Court at Vaduj. The said application was rejected vide order dated 6th September 2021.

4. Learned Advocate for Applicant submitted that, the complainant has referred to surname of the applicant in the FIR and not the full name of the applicant. No role of assault has been attributed to the applicant. Cross case was registered vide C.R. No. 76 of 2021 for offences punishable under Sections 302, 143, 147, 148, 149 of the IPC. Accused No.1 in C.R. No. 75 of 2021 died in the

incident on account of assault from opposite side. Test identification parade was not conducted. The applicant had no motive to commit the crime. Assuming that, person named Mr. Tupe is the applicant, no role of assault is attributed to him. The CCTV footage shows that, the applicant was proceeding from the spot of incident in normal course, which shows that the applicant was not involved in the incident of assault.

5. Learned APP submitted that, the applicant has been named in the FIR. Offence is of serious nature. The applicant has participated in the crime. The applicant was one of the assailant. The assault was in furtherance of common object.

6. On perusal of FIR in C.R. No. 75 of 2021 it can be seen that, the complainant and others had visited the house of Chandrakant Jadhav. The first informant has alleged that, prior to the main incident, he was assaulted by Chandrakant Jadhav, Deepak Jadhav and three other persons and one of them was Mr. Tupe. According to complainant, after learning that his brother and nephew had visited the house of Chandrakant Jadhav, the complainant went to the spot of incident. Chandrakant Jadhav and others had assaulted them. It is vaguely stated that, there was quarrel between both the groups and person name Mr. Tupe was also amongst them. The applicant is not attributed specific role of assault. Assuming that, applicant is

seen at the scene of offence in CCTV footage, except presence no overt act of participation in crime is attributed to him. He is not armed with weapon. C.R. No.76 of 2021 was registered at the instance of Smt. Daya Suryakant Jadhav alleging that, Vilas Jadhav, Satyawar Jadhav, Krishna Jadhav, Vishwas Jadhav, Sagar Jadhav, Jivan Jadhav, Samir Jadhav, Pandurang Jadhav, Shivaji Jadhav, Madhav Jadhav had gathered in front of her house and assaulted Chandrakant Jadhav with axe, iron pipe and fist/kick blows. Chandrakant Jadhav was bleeding and lying dead in the house. CCTV footage indicate that, the applicant was present near the scene of offence. The CCTV footage does not indicate that, the applicant was armed with any weapon and had assaulted any person.

7. Considering the facts of this case and nature of evidence against the applicant, case for grant of bail is made out.

ORDER

- (i) Criminal Bail Application No.431 of 2022 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No.75 of 2021 registered with Dahiwadi Police Station on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant is permitted to furnish provisional cash bail security in the sum of Rs.25,000/- for a period of

eight weeks in lieu of surety.

- (iv) The applicant shall report concerned Police Station once in a month on first Saturday of the month for a period of three months and thereafter, once in three months on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- (v) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)