

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 660 OF 2021

Akshay Dilip Pawar

..Applicant

V/s.

The State of Maharashtra

..Respondent

Mr. Ashok Dubey a/w Abhinav Dubey i/b SAVJ Law Solutions
for the Applicant.

Mr. A.R. Kapadnis, APP for the Respondent/State.

CORAM : C.V. BHADANG, J.

DATE : 23 FEBRUARY 2022

P.C.

1. The Applicant along with co-accused has been chargesheeted for the offence punishable under Section 302 and 201 of IPC arising out of Crime No. 658 of 2019 of Police Station Yerwada District Pune.

2. The prosecution case as disclosed from the complaint lodged by Police Naik Sandeep Deokar attached to Loni Kalbhor Police Station, is that in the night intervening between 19.09.2019 and 20.09.2019, the first informant along with other police staff was on a patrolling duty. In the early hours of 20.09.2019, the patrolling party noticed that there were four

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persons travelling on a motorcycle and one of the person was having a sac on his head and he was bleeding. The patrolling party, therefore, chased the said motorcycle. It was found that three riders on the motorcycle lifted fourth person near Bank of Baroda building and were carrying him. All three persons were intercepted and on inquiry, it was revealed that the fourth person, who was having a sag on head, was dead. It was revealed that his name was Bharat Raju Bade. On the basis of the complaint dated 20.09.2019 lodged by Police Naik Deokar, the offence came to be registered and after the investigation, a chargesheet is filed.

3. I have heard the learned counsel for the parties. Perused record.

4. It is submitted by the learned counsel for the Applicant that there is no eye witness account of the incident in which the deceased Bharat Raju Bade was assaulted muchless by the Applicant. It is submitted that even according to the prosecution, the deceased had a dispute with co-accused Vijay Pawar and not with the Applicant. It is submitted that the prosecution has suppressed the C.A. report. It is submitted that the clothes allegedly seized from the Applicant, do not show that they bear blood stains of the blood group belonging to the deceased. It is also submitted that the prosecution has suppressed CDR record of the Applicant.

5. The learned APP submitted that the Applicant and the co-accused were arrested on the spot while carrying the dead body of Bharat Bade and one of the co-accused had shown the spot, where the deceased was done to death by assaulting him by a cement block and kadappa stone. It is submitted that the postmortem report is in consonance with the nature of assault. There is recovery of the blood stained clothes from the Applicant, which according to the learned APP is sufficient at this stage to show the involvement of the Applicant in the offence.

6. I have considered the submissions made. It is true that insofar as the main incident in which the deceased was allegedly assaulted and done to death, there is no eye witness. However, the Applicant was found to be one of the riders on the motorcycle on which the deceased was being carried in the dead of night and all three accused were intercepted by the patrolling party of the police and it was found that the fourth person on the motorcycle who had sustained injuries on his head was dead. Prima facie, the postmortem report corroborates the nature of the assault on the head by a cement block and/or a stone. The death is caused by head injury. There is also recovery of blood stained clothes from the Applicant. This is a case in which, according to the prosecution that there was a common intention of all the accused to eliminate the deceased. He had previous dispute about 15 days

prior with co-accused Vijay Pawar. This is not the stage where the evidence can be appreciated in details. No case for grant of bail is made out.

7. The Criminal Application is hereby rejected.

8. Trial is expedited.

(C.V. BHADANG, J.)