

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.508 of 2022

Yunus Majidullah Khan .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mrs.Anjali Patil i/b Nowman Shaikh for the applicant.
Mr.S.V.Gavand, APP for the State.
PSI Shri Kangalgaonkar from Mulund police station.

CORAM: BHARATI DANGRE, J.
DATED : 22nd AUGUST 2022

P.C:-

1 Heard Mrs.Anjali Patil for the applicant and Mr.S.V. Gavand, the learned APP for the State.

 The applicant face charge u/s.302, r/w.34 IPC. He came to be arrested on 27/6/2021. The co-accused Rohan Bhandare who is also charge-sheeted along with the present applicant, is released on bail by the Sessions Court on 18/2/2021 by recording that no specific role is attributed to him.

2 With the assistance of the respective counsel, I have perused the charge-sheet filed in the subject C.R in which the applicant is arraigned as accused no.2.

3 The complainant is the wife of the deceased Rakesh Sharma, who reported about an incident which took place at around 1.30 p.m on 27/6/2021. She has stated that while they were present at home, at around 5.15 p.m, somebody was knocking the door and one person was standing outside. She was asked to call her husband outside and when her husband came out, he referred to the said person as 'Sunny' and therefore, she gathered that the person who had visited their house, was Sunny.

4 The husband was taken outside the house and suspecting that something is wrong when she also stepped out of the house, she could notice that Sunny and his three associates were beating her husband. When she asked why he was being assaulted, Sunny threatened her by means of a pointed weapon which he was holding and he stabbed her husband in his chest. Her husband sustained injuries and when she raised a cry for help, the people present in the ground nearby, came to her rescue and he was taken to the hospital.

 The complainant gave the description of Sunny Detha as well as the description of two other persons who were present.

5 The deceased succumbed to the injuries and the post mortem report in column no.17 refer to two stab injuries and two incised injuries and the cause of death has been ascertained as '*hemorrhage and shock due to stab injury to chest*'

6 The happening of the incident came to be recorded in a CCTV camera which was transmitted into a pen-drive and a panchnama has been drawn on 3/7/2021, where it is recorded that around 17.22.6, the four accused persons are seen smoking cigarette in a lane. At around 17.26.15 to 17.28.03, the four accused persons are seen fighting with the deceased Rakesh Sharma. It is also seen that accused no.1 Sunny stabbed Rakesh with some thing in his hand. At 17.28.35, it is seen that the injured Rakesh is taken to the hospital.

7 The learned APP Mr.Gavand has relied upon a statement of one Jaiswal and statement of two other witnesses, who according to him, has attributed a role to the applicant of holding the deceased while Sunny stabbed him on his chest, left portion of his stomach and back, as a result of which he started bleeding. However, this role is not specifically attributed by the complainant or even the CCTV footage also do not refer the same. In any case, the applicant will take the consequences of being charged with Section 34 of sharing the common intention, but at present, when the co-accused has been released on bail, on completion of investigation and the material against the applicant being compiled in the charge-sheet, he also deserve his release on bail. Hence, the following order :-

ORDER

- (a) The Applicant – Yunus Majidullah Khan in connection of C.R.No.707/2021 registered with Mulund police station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (c) On his release, the applicant shall furnish his contact number and the address where is likely to reside.
- (d) The Applicant shall mark his attendance on first Monday of every month with the Investigating Officer between 10.00 am to 12 noon till framing of charge.
- (e) The applicant shall attend the trial on regular basis.

The Application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)