

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 599 OF 2022

Akshay Balkrushna Gaikwad ..Applicant

V/s.

The State of Maharashtra ..Respondent

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Mr. Satyam H. Nimbalkar a/w. Shivprasad H. Salunke for the
Applicant.

Mrs. M.R. Tidke , APP for the Respondent/State.

CORAM : C.V. BHADANG, J.

DATE : 11APRIL 2022

P.C.

1. By this Application, the Applicant (Accused No.5) is seeking release on bail in Crime No. 281 of 2018 registered with Saswad Police Station, Pune. The Applicant along with co-accused have been chargesheeted for the offence punishable under Section 143, 145, 147, 148, 149, 302, and 307 of IPC and Section 3 read with Section 25 of the Arms Act, for having intentionally caused death of Santosh Dalvi and having made an attempt on the life of his father Sadhu Ananta Dalvi, who is the first informant.

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

3. The aforesaid crime is registered on the basis of the complaint dated 1 August 2018 filed by Sadhu Ananta Dalvi. According to the informant, on 31 July 2021 the Applicant and the co-accused had formed an unlawful assembly at 9:30 p.m. and in prosecution of the object thereof, the informant and the deceased Santosh Dalvi were assaulted by fist and kick blows and by stones, in which both the informant as well as deceased sustained injuries. The deceased Santosh succumbed to the said injuries.

4. In this case after investigation, a chargesheet is filed.

5. It transpired during the course of hearing that initially the claim was made by the informant that co-accused Dadaso Suresh Katke and Hemant Ramesh Gaikwad had fired shots by a country-made revolver on the deceased. The learned counsel for the Applicant pointed out that, in the postmortem examination, no firearm injuries were noticed on the dead body, after which the version was changed by the witnesses.

6. The learned APP pointed out that a country-made revolver was recovered from the spot, however, without evidence of any actual firing in the nature of empty cartridges etc.

7. The learned counsel for the Applicant has pointed out that the co-accused Mohan Laxman Gaikwad, Mayur Borade,

Balkrishna Gaikwad and Deepak Ganesh Bhandwalkar having similar role, have been released on bail by this Court by separate orders, copies of which are annexed to the application. He submitted that parity would apply.

8. The learned APP pointed out that parity may not apply. It is pointed out that the co-accused Adesh Shivaji Pawar was released on bail, because he was not named by the informant in the statement under Section 164 of Cr.P.C.

9. In order to appreciate the rival submissions, I have gone through the statement of the informant and the witnesses, including the statement recorded under Section 164 of Cr.P.C. and also the order passed by this Court, by which the co-accused Adesh Shivaji Pawar, Mohan Laxman Gaikwad, Mayur Borade and Balkrishna Gaikwad have been released on bail.

10. A perusal of the Statement under Section 164 of Cr.P.C. of the informant shows that apart from the present Applicant, he has also named the co-accused Mohan Laxman Gaikwad, Mayur Borade, Balkrishna Gaikwad and Deepak Ganesh Bhandwalkar. All of them have been released on bail. It appears that the allegations against the Applicant and these co-accused is that they had assaulted the deceased with fist and kick blows while the co-accused Suresh Haribhau Katke and Santosh Ghisare, had caught hold of the deceased Santosh Dalvi.

11. In my considered view, looking to the role attributed to the Applicant, it is similar to the accused, who have been released on bail namely Mohan Laxman Gaikwad, Mayur Borade, Balkrishna Gaikwad and Deepak Ganesh Bhandwalkar, who have also been named by first informant in the statement under Section 164 of Cr.P.C. Thus the claim of parity deserves to be accepted.

12. In the result, the following order is passed.

ORDER

i) The Applicant **Akshay Balkrushna Gaikwad** be released on bail in Crime No. 281 of 2018 registered with Saswad Police Station, Pune on executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

ii) The Applicant shall undertake to remain present before the learned Sessions Court, during the course of trial, unless exempted.

iii) The Applicant shall report to the Investigating Officer once in a month i.e. on the first Monday of every month between 11.00 a.m. to 1.00 pm.

iv) The Applicant shall not tamper with the prosecution evidence/witnesses.

v) In the event of breach of any of the conditions, the bail is liable to be cancelled.

vi) Bail bonds to be furnished before the learned Sessions Court.

vii) It is made clear that the observations herein are essentially of a prima facie nature and the learned Sessions Court shall not be influenced by the same at the trial.

viii) Criminal bail application is disposed of in the aforesaid terms.

(C.V. BHADANG, J.)