

something in the truck by using torch light. The witnesses ignored them under the impression that truck must have stopped on the account of technical snag. Thereafter, they heard some sound and proceeded towards truck. Three persons were found sitting there. The witnesses saw them in the light of torch. They immediately left the place of incident. One person was found lying in pool of blood. He was driver of the truck. He was taken to the hospital. He was declared dead. Investigation proceeded. Three persons were arrested. Test identification parade was conducted. The applicant was allegedly identified by Prakash Mane. However, he was not identified by Jagannath Survase, whereas the co-accused Vijay Sonawane was identified by both the witnesses and the third person Chaturdhan Kalse was identified by Prakash Mane and not identified by Jagannath Survase.

3. Learned Advocate for the applicant submitted that the other accused are granted bail by the Court of Sessions. The role attributed to applicant is identical. None of the witnesses have witnessed the incident of assaulting victim. The case is based on circumstantial evidence. The only distinction qua the applicant is that there is recovery of knife and two motorcycles at the instance of applicant. Blood stained clothes are allegedly handed over by

the applicant. The applicant is in custody since last four years.

4. Learned APP submitted that the incident had occurred at about 1.30 a.m. in the night. The accused were found at the place of incident. The applicant is identified by one of the witnesses. Knife and motorcycle were recovered at his instance. Blood stained clothes are seized during investigation. The applicant is involved in the crime. One more similar case is registered against the applicant in the past.

5. Undisputedly, the incident of assault is not witnessed by any person. However, the prosecution is relying upon the circumstance that the applicant and the other accused were present at the scene of offence and they have reason to commit the crime. There is alleged recovery of knife and motorcycle from the applicant. There is no cogent evidence to establish that the motorcycles seized were used in commission of crime. The C.A. report with regards to knife and clothes is not produced. On the previous date of hearing, time was sought for production of C.A. report. It is apparent that, for a brief period the accused were seen at the scene of offence by witnesses. Prakash Mane has allegedly identified the applicant and the other witness Jagannath Survase has not identified. Similarly the co-accused Chaturdhan was also identified by Prakash

Mane and not identified by Jagannath Survase. The accused Vijay Sonawane was identified by both the witnesses. Both these accused are granted bail. The applicant is in custody for a period of about four years. Considering these circumstances, bail can be granted to the applicant.

6. Hence, I pass the following order:

ORDER

- i. Criminal Bail Application No. 1000 of 2022 is allowed;
- ii. The applicant is directed to be released on bail in connection with C.R. No.1358 of 2018 registered with Hadpasar Police Station, Dist. Pune 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 cash bail in 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 between 11:00 a.m. to 1:00 p.m. till further order;
- v. The applicant shall not tamper with the evidence.
- vi. Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)