

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION No. 1865 OF 2021**VAISHALI
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+0530**Somnath Kalu Tongare****...Applicant****Vs.****The State of Maharashtra****...Respondent***** * * *****Mr. Abhishek Yende for Applicant****Ms. M.R. Tidke, APP for State/Respondent****Coram : Sandeep K. Shinde, J.****Dated: 7th JUNE, 2022.****P.C. :**

1. Heard learned counsel for the Applicant and the learned APP for the State.
2. Applicant seeks his enlargement on bail in connection with Crime No. 1/2020 registered at Dindori Police Station, corresponding Sessions Case No. 154 of 2020 for the offences punishable under Sections 302, 341, 324, 143, 147, 148, 149, 323, 427, 504, 506 of the Indian Penal Code, 1860 (IPC for short).
3. It is the prosecution case that the applicant being a member of unlawful assembly in prosecution of common object, instigated the co-accused to assault Shivaji Pardhi (deceased). In the consequence, Shivaji was assaulted with a deadly weapons. Shivaji Succumbed to the injuries on the spot. The incident was reported to police.

Whereupon, the crime came to be registered against eleven persons by names. The complaint filed by the eye witness, describes, account of incident ascribing specific role to each of the assailants. However, First Information Report, does not attribute role to the applicant at all, However, the last but one paragraph of the FIR, reads and suggest that there was hostility between the applicant and deceased Shivaji Pardhi. The narration of that paragraph refers to incident of quarrel between applicant and deceased, which had ensured in the year 2015. However, on 14th January, 2020, in the supplementary statement, complainant alleged t hat applicant was present on the spot and at his instance, the co-accused assaulted and murdered Shivaji Pardhi. Having taken note of this fact, it is argued by the learned counsel for the applicant that the applicant has been impleaded after thought, inasmuch as and there was no reason to exclude him from the first narration. It is further argued that, prosecution has not placed on record any incident to suggest that since 2015, the relations between the deceased and the Applicant were strained and that applicant was hourbouring grudge against the deceased.

4. Having considered the facts of the case, prima facie, material brought on record by the prosecution, renders, applicant's presence on

the spot doubtful. In consideration of this fact, a case is made out for releasing the applicant on bail. Hence, the following order:

Order

(i) The applicant in Crime No. 1/2020 registered at Dindori Police Station, corresponding Case No. 154 of 2020, shall be released on executing PR bond for the sum of Rs.30,000/- with one or more sureties in like sum.

(ii) The applicant shall attend the concerned police station on second and fourth Monday of every month between 11.00 a.m. to 1.00 p.m. from June, 2022 till the charge is framed.

(iii) The applicant shall furnish his permanent residential address and contact number to the Investigating Officer within seven days from the date of his release on bail.

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

5. The application is accordingly allowed and disposed of.

6. It is made clear that observations made here-in-above be construed as expression of opinion for the purpose of bail only and the same shall not in any way influence the trial in other proceedings.

(Sandeep K. Shinde, J.)