

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1590 OF 2021

Rohidas @ Rohit Shrikant Mhatre

...Applicant

Versus

The State of Maharashtra

...Respondents

....

Mr. Amin Solkar i/b. Ms Misbah Solkar for the Applicant.

Mr. M.G. Patil, APP for Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 4th MAY, 2022.

P.C.:-

1. This is an application under Section 439 of Cr.P.C., filed by the Applicant, who is facing trial in Sessions Case No.117 of 2019 pending on the file of learned Additional District and Sessions Judge, Kalyan, arising out of Crime No. 617 of 2018 registered with Kolsewadi Police Station, Thane, for offences punishable under Sections 302, 307, 37(1)

2. Mr. Solkar, learned counsel for the Applicant states that the complainant had not disclosed the name of Dnyaneshwar who had allegedly told him about the incident. The FIR also reveals that Dnyaneshwar had not disclosed the name of the assailant. The medical records also record history of assault by an unknown person. He therefore contends that the name of the Applicant is mentioned in the

FIR, which is lodged belatedly, after due deliberations.

3. Per contra, learned APP states that there are two eye witnesses who have attributed a direct role to the Applicant in inflicting injuries on the deceased. He further states that the statement of the witness recorded under section 164 Cr.PC and the other material on record prima facie shows involvement of the Applicant in commission of the said crime, which is of serious nature.

4. Heard learned counsel for the respective parties and perused the records.

5. The records prima facie indicate that the aforesaid crime was registered pursuant to the FIR dated 04/11/2018 lodged by Mani Nayar. A perusal of the FIR prima facie reveals that on 03/11/2018 the Complainant, the deceased and some other friends had attended a function. The Complainant has stated that when he reached home at about 23:30 hours, one boy came to his house and told him that Asif was being assaulted. When he went near the place of the incident, he saw that Asif was lying on the ground and one person who had was sitting on him was inflicting injuries on Asif with knife. The Complainant identified

the assailant as Rohit Mhatre, the Applicant herein. The Complainant has stated that when he tried to intervene, the Applicant also inflicted an injury on him. The material on record also prima facie reveals that the Complainant had also sustained stab injuries in left lumbar region on his hand and this fact prima facie substantiates his contention and proves his presence at the place of the incident.

6. The statement of the Complainant prima facie reveals that there was previous enmity between the Applicant and the deceased. The statement of Dnyaneshwar Kamble, who is one of the eye witnesses also prima facie reveals that he had seen the Applicant inflicting injuries on deceased-Asif. The post mortem report reveals that the deceased had suffered multiple stab injuries on his abdomen and chest.

7. The aforesaid material prima facie shows the involvement of the Applicant in committing murder of the deceased in a most brutal manner. Considering the above facts and circumstances, no case is made out for grant of bail. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)