

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1356 OF 2022

Rushikesh Rajendra Wadekar] ... Applicant

Vs.

State of Maharashtra] ... Respondent

...

Mr. Jyotiram S. Yadav for the applicant.

Mr. Y.Y. Dabake, A.P.P. for the respondent-State.

Mr. Rahul Lad, A.P.I. attached to Khed Police Station, Pune Rural
is present in the court.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 06TH MAY, 2022.

P.C. :-

1. This is the third successive bail application, the first one being permitted to be withdrawn on expressing disinclination to entertain the same on 26/08/2021 and the second application being once again withdrawn on 28/03/2022.

2. The learned counsel for the applicant would invite my attention to the two statements, which form part of the charge-sheet, being the statement of the sister of the deceased by name Snehal Gurav and by her husband Ganesh Gurav, recorded on 15/08/2020. These statements unfortunately, were not pointed out to me on the earlier two occasions by either sides.

3 The learned counsel for the applicant heavily relied upon the said statements, which are compiled in the charge-sheet, which *prima facie*, create a hole in the case of the prosecution, which is to the effect that on 07/07/2020, some witnesses had seen the deceased lastly, in the company of the applicant, the said incident being taking place on 07/07/2020 in the evening hours.

4. Snehal, who is the sister of the deceased, however, states that her brother deceased Niranjan and her friend Bajrang had visited her on 07/07/2020 from Bidar. She states that they came to her place at about 10.00 p.m. and informed her that there was some quarrel, which had ensued at Pimple-Gurav and his friend Manoj was staying in Shiroli whereas, he along with his friend had gone to stay with her in the night. Next day, in the morning at around 8.00 a.m., it is stated by her, that after having breakfast, they left her house by stating that they are leaving for Rajguru Nagar and from there they will be proceeding to their native place. In the afternoon, she was informed on telephone by the police that her brother Niranjan and Bajrang were done to death by use of

sharp weapons and were removed to the Rural Hospital, Chandoli, Taluka Khed, District Pune. Thereafter, they reached the hospital and identified the body. Similar is the statement of Ganesh Gurav recorded on 15/08/2020.

5. The aforesaid two statements break the chain of circumstance, which ought to be put forth by the prosecution since the case of the prosecution is to the effect that the applicant was found to be present on the spot being armed with weapons in the evening of 07/07/2020. However, if two witnesses specifically depose that they were alive on the morning of 08/07/2020, the chain of circumstances is not complete and the prosecution version cannot be taken as the last seen circumstance.

6. Since this evidence collated by the prosecution in the charge-sheet was not pointed out on the earlier two occasions and claiming parity with co-accused Hemant @ Siddharth, who has been released on bail on 09/02/2022 by this court in Criminal Bail Application No.3565 of 2021, I am inclined to release the applicant on bail. When specifically asked, whether the applicant has any criminal antecedents, the learned A.P.P. has answered in the negative. Hence, the following order:

: O R D E R :

(a) The applicant – **Rushikesh Rajendra Wadekar**

shall be released on bail in C.R. No.306 of 2020 registered with Khed Police Station, District Pune, on executing P.R. bond in the sum of Rs.25,000/- and furnishing one or two surety in 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 and shall not tamper with prosecution evidence.
- (c) The applicant shall mark his attendance before the learned Sessions Judge during the trial unless exempted.
- (d) The bail bonds to be furnished before the learned Sessions Judge.

7. The application is allowed in the aforestated terms.

8. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]