

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1857 OF 2021**

Akshay Pradip Rewale

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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Mr.Vaibhav P. Puneekar for the Applicant.

Mr.S.V.Gavand, A.P.P. for the State/Respondent.

PSI Jitendra Kadam, attached to Tilak Nagar Police Station,
present.

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CORAM: BHARATI DANGRE, J.

DATED : 26th AUGUST, 2022

P.C:-

1. The applicant came to be arrested on 20/07/2020 in connection with C.R.No.218 of 2020 registered with Tilak Nagar Police Station, which invoke the provisions of Sections 302, 506(2), 504 read with Section 34 of IPC and Sections 4, 25 and 27 of the Indian Arms Act. Four persons came to be arraigned as an accused. On completion of investigation, charge-sheet was filed and the applicant was indicted as accused No.3.

2. With the assistance of the learned counsel for the applicant and the learned A.P.P., I have perused the charge-sheet, which is placed on record.

3. The complaint came to be registered by one Ayush Gagda, who is the son of deceased Jitendra Gagda, a vegetable vendor.

He refer to an incident dated 19/07/2020, when his father left the house at about 19.30 hrs. and he went to fetch his father, since they wanted to attend a function. At around 20.30 hrs. he went to Banjara Wasti, where his father was found consuming liquor with one of his friend. The complainant noticed the presence of four accused persons on the spot and as per his version, they were abusing his father. He asked his father to accompany him and they both started walking towards their house, the complainant being ahead and his father following him, at some distance, he could hear the shouts of his father and when he turned around, he saw that Aniket, his brother Atish, present applicant and Santosh were assaulting him. He filled up further details, by stating that Aniket was armed with a sword and Atish and Santosh were holding knives in their hands. Aniket is alleged to have assaulted his father in his head by means of a sword and he fell

down. Atish and Santosh then stabbed him with the knives in their hands. As far as the present applicant is concerned, he is alleged to have assaulted by fist and blows. The complainant sought help and when the people gathered, it is alleged that Aniket created a reign of terror by threatening the persons coming to the rescue of the deceased.

3. The postmortem report record 16 stab injuries and the cause of death has been ascertained as “hemorrhage and shock due to multiple stab wounds”.

4. The case of the prosecution is that the deceased was done away to death by the four persons, but from the statements of the witnesses, the role attributed to the present applicant is of assaulting the deceased by fist and blows. No doubt, he will take the consequences of sharing the common intention, since Section 34 of IPC has been invoked in the charge-sheet.

It is not the case of the prosecution that the applicant was armed with any weapon and the injuries, which have been noted on the body of deceased which are in form of stabbing, are caused by him. Further, there is no recovery of weapon against the present applicant though blood stained clothes were seized from him and this circumstance by itself cannot be considered to be incriminatory, since the presence of the

applicant on the spot is not disputed. The applicant, being a young boy aged 25 years, does not deserve his further incarceration, since almost two years have passed and he is detained and framing of charge and conclusion of trial may consume considerable time.

Hence, the applicant deserves his release on bail, subject to the stipulation that he shall not in any way, influence the prosecution witnesses or make an attempt to tamper with evidence.

: ORDER :

- (a) Application is allowed.
- (b) Applicant - Akshay Pradip Rewale shall be released on bail in connection with C.R.No.218 of 2020 registered with Tilak Nagar Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(d) The applicant shall attend the trial on regular basis, unless specifically exempted by the trial Court.

(SMT. BHARATI DANGRE, J.)