

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

CRIMINAL BAIL APPLICATION NO. 1645 OF 2022

Suraj Rajendra @ Rajaram Sutar ...Applicant
Versus
The State of Maharashtra ...Respondent

....

Ms. Shubhangi Parulekar, Advocate for the Applicant.

Mr. N. B. Patil, APP for the Respondent – State.

API Vinayak Devkar, Paud Police Station, present.

CORAM : PRAKASH D. NAIK, J.
DATE OF RESERVING ORDER : 14th OCTOBER, 2022
DATE OF PRONOUNCEMENT OF ORDER: 19th DECEMBER, 2022

PER COURT:

1. The applicant is arrested on 2nd July, 2021 in C. R. No. 445 of 2019 registered with Paud Police Station, Pune, for offences punishable under Sections 143, 147, 148, 149, 302, 427, 323 Indian Penal Code and 4, 27 of Arms Act, and 37(3), 135 of the Maharashtra Police, 1951 Act.

2. The case of the prosecution is as follows:-

i. The First Information Report was registered by Mahesh Raghunath Satav alleging that one Ganesh Dhedge was murdered in 2016. Pratik Prashant Satav (deceased) and the complainant were witnesses in the said case. Hence Kiran Balasaheb Satav and Sameer Balasaheb Pandhre had grudge against them. The complainant had booked a new car. The delivery was to be given

KAWRE
KIRAN
KALYAN
Digitally
signed by
KAWRE KIRAN
KALYAN
Date:
2022.12.19
18:48:32
+0530

on 8th October, 2019. At about 11.00 a.m., the complainant and his friends Shubham Sanjay Satav, Pradeep Shashikant Raut, Pratik Prakash Satav had visited the showroom at Wakad. They took the possession of the car. The complainant and Pratik Satav left together in the new car. The complainant was driving the car. They were followed by Shubham Sanjay Satav on his motorcycle. On the way they met complainants cousin Ajit Satav. He informed the complainant that he should go home and bring his mother and sister-in-law for performing Pooja of vehicle. The complainant and Pratik went towards Savta Mali Nagar. At about 3.00 p.m., they reached near Sonali poultry farm. They were blocked by tractor coming from the opposite direction. Ranjeet Madhukar Kalamkar was driving the tractor. The complainant was required to stop the car. They were followed by Santro Car. Kiran Balasaheb Satav and others got down from Santro car. Kiran Balasaheb Satav was carrying sickle, Sameer Balasaheb Pandhre, Kiran Shivaji Kalamkar, Mahesh Davre were also carrying sickle. Ranjeet Madhukar Kalamkar got down from the tractor with iron sickle. Two unknown persons were accompanying the accused and they were also armed with sickles. Kiran Balasaheb Satav banged the sickle on the front screen of the car and broke the front screen of car. The accused pulled Pratik Satav out of the vehicle and all of them assaulted him

with weapons. The complainant got down from the vehicle and tried to intervene. He was assaulted with fist blows. He was chased by the accused with weapons in their hand. Shubham Sanjay Satav came to the spot with father of Pratik. Sister of Pratik also came to the spot. The accused ran away from the spot. Pratik Satav succumbed to injuries. He was declared dead. Investigation proceeded statements of witnesses were recorded. Charge-sheet was filed.

3. The applicant preferred an application for Bail before the Court of Sessions. The said application was rejected vide Order dated 1st December, 2021.

4. Learned Advocate for the applicant submitted that, the applicant has been falsely implicated in this case. The applicant is not named in the FIR. He was arrested on suspicion. The name of the applicant was referred to in the supplementary statements of witnesses. The version of the witnesses in the supplementary statements is in the nature of hearsay. The identification parade was conducted on 24th December, 2021, although the applicant was arrested on 2nd July, 2021. The alleged incident had occurred on 8th October, 2019. Thus the test identification parade was conducted after two years from the date of incident and after about six months from the date of arrest. Test identification parade is

defective. The weapon is recovered from the applicant, after two years from the date of the incident. Co-accused Ganesh Kadam has been granted bail by this Court vide order dated 24th March, 2022. The other accused Akshay Kudale, Vaibhav Tapkir, Mahesh Kadam, Vijay Namdeo Kudale were granted Bail by the Court of Sessions.

5. Learned APP submitted that, the offence is of serious nature. The first informant and other eye witnesses have referred to participation of two unknown persons. The applicant is one of them. During the course of investigation, involvement of the applicant was released. Attempts were made to arrest him. He was absconding. Proclamation was issued against him, declaring him as absconder. He was arrested at Aurangabad. He has been identified by the eye witnesses in the test identification parade. The victim was brutally assaulted with weapons. The accused were armed with dangerous weapons. There is recovery from the applicant. The delay in holding test identification parade is not a ground for grant of bail. The role of the co-accused who were granted bail can be distinguished. The applicant was involved in the past in C. R. No.54 of 2013 registered with Paud Police Station for an offences punishable under Section 302 read with 34 of the Indian Penal Code.

6. Learned counsel for the applicant submitted that, in the

previous case registered under Section 302 of the IPC with Paud Police Station, the applicant was tried before the Court of Sessions and he has been acquitted vide judgment and Order dated 28th March, 2018 passed by Additional Sessions Judge, Pune, in Sessions Case No.522 of 2013.

7. The case of the prosecution is that, the deceased was the witness in the murder case of one Ganesh Dhedge. Kiran Balasaheb Satav and Sameer Balasaheb Pandhre had a grudge against him on that count. They used to pickup quarrels with the deceased and the first informant. The incident had occurred on 8th October 2019. The first informant and the deceased were travelling in the car which was blocked by the accused. There were several assailants. All of them were armed with deadly weapons like sickle. The applicant is not named in the first information report. However, there is reference of two unknown persons being assailants involved in assaulting, the deceased with sickle. The first informant has also recover to presence of Shubham Sanjay Satav, Prakash Baban Satav and Priyanka Sandeep Raut at the spot of incident. Statement of the father of the victim Prakash Baban Satav was recorded on 9th October, 2019. He is an eye witness to the incident. He has referred to assault by the accused. He also referred to assault by two unknown persons. His version is similar to first informant. The

applicant was not named in his statement. His supplementary statement was recorded on 28th October, 2019 wherein he stated that his son Pratik was murdered at the instance of Mahesh Tanhaji Kadam and Ganesh Tanhaji Kadam by Ranjeet Kalamkar, Kiran Balasaheb Satav Sameer Balasaheb Pandhre, Kiran Shivaji Kalamkar, Mahesh Gavde Suraj @ Sonya Santosh Gavde, Vijay Kudale, Akshay Kudale, Suraj Sutar by hatching conspiracy they were help by Vaibhav Sanjay Tapkir was running away from the spot. Statement of Shubham Satav was recorded on 9th October, 2019 wherein he has also referred to assault by two unknown persons alongwith the other persons who are named in his statement. His supplementary statement was also recorded on 28th October, 2019 it is similar to the statement of other eye witnesses. Statement of Priyanka Sandeep Raut (sister of deceased) was recorded on 9th October, 2019. She has named the assailants and two unknown persons as assailants. Her supplementary statement was recorded on 28th October, 2019 where reference is made to the involvement of the applicant. On completing investigation charge-sheet was filed. The applicant was not arrested. Proclamation was issued under Section 82 of the Code of Criminal Procedure and the applicant was declared absconding. He was arrested on 2nd July, 2021 at Aurangabad. He could be arrested after a period of about

two years from the date of incident. Weapon used in the crime has been recovered from the applicant. The prosecution case is that, the applicant was driving Santro Car and went to the spot and assaulted the victim. There are eye witnesses to the incident. Applicant has been identified by eye witnesses. It is true that the parade was conducted after about of two years from the date of incident. However the applicant was absconding. Inspite of proclamation, the applicant could not be arrested immediately. The applicant was remanded to judicial custody on 6th July, 2021. Letter was forwarded to the tehsildar immediately on 7th July, 2021 for conducting parade. However identification parade could be conducted on 24th December, 2021. The ground that, the parade was defective or it was conducted belatedly will be considered during the trial. The role of co-accused who were granted bail can be distinguished. Their involvement stand on different footing. They were not the assailants in the crime. Considering the factual aspects no case is made out for grant of bail.

ORDER

. Criminal Bail Application No. 1645 of 2022 is
rejected and disposed off.

(PRAKASH D. NAIK, J.)