

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2191 OF 2021

Raju Chatru Pardeshi	..Applicant
Vs.	
The State of Maharashtra	..Respondent

Mr. Khan Abdul Wahab, for the Applicant.
Mr. N. B. Patil, APP for the Respondent / State.
PSI V. S. Mohite, Wanwadi Police Station, Pune City.

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CORAM : C.V. BHADANG, J.
DATE : 4 MARCH 2022

P.C.

. By this Application, the Applicant Raju Pardeshi (Accused No.2) is seeking bail. The Applicant alongwith co-accused has been chargesheeted for the offence punishable under Section 302, 143, 147, 148, 149, 323 and 504 of IPC and Section 37(1) r/w. 135 of the Maharashtra Police Act and Section 4/25 of the Arms Act, arising out of Crime No.478/2020 of Police Station Wanwadi, District Pune.

2. I have heard the learned counsel for the parties. Perused record.

3. The aforesaid offence is registered on the basis of the complaint dated 7 June 2020 lodged by Alice Kanet Pareira. She states that about 15 days prior to the incident, the minor daughter of her sister Sheetal Bidlan and the deceased Shakti Bidlan was intimidated and threatened with rape by one Aman Rajesh Marote. The co-accused Bablu Pardeshi happens to be the maternal uncle of Aman Marote. The said dispute was amicably settled between the parties and no complaint was lodged. On 7 June 2020 at about 7.45 p.m. the informant along with her mother Rani Chettiyyar and two sisters Sheetal Bidlan and Simran were chitchatting in front of their house. At that time Pooja Pardeshi, Manisha Chavan, Manoj Pardeshi, Padma Pardeshi, Shobha Pardeshi, Ayesha Marote and Rajshree Marote and some other ladies came there and abused them. The informant also abused Pooja Pardeshi and others who had come there which was followed by a scuffle in which Ayesha Marote fell down. When the informant and others were proceeding to lodge a complaint, the deceased Shakti Bidlan came there and was informed about the said incident. It appears that the deceased called the accused Bablu Pardeshi who came at the spot at 8.15 to 8.30 hours along with co-accused. Akash Pardeshi was having a sickle while Rushi Pardeshi and Rushabh Pardeshi were having wooden stumps

and Bablu Pardeshi had an iron rod. A quarrel ensued between them, followed by a scuffle, in which Shakti Bildan was assaulted and suffered injuries. Shakti Bidlan was taken to hospital. It appears that during the course of the treatment, the deceased contracted Covid-19 infection and died on 14 June 2020. The medical certificate shows the death having been caused due to “assault with polytrauma with Covid-19 infection with acute respiratory distress syndrome”. It appears that initially an offence under Section 307 was registered and on death of Shakti Bidlan, offence under Section 302 of IPC was added. In this case, upon investigation a charge-sheet is filed.

4. I have heard the learned counsel for the Applicant and the learned APP. Perused record.

5. It is submitted by the learned counsel for the Applicant that it was the deceased who first slapped Bablu Pardeshi who is alleged to have called others by way of back-up. It is submitted that the Applicant was not carrying any weapon and the statements of the eye witnesses shows that he had assaulted by a stone, while the CCTV footage shows that the Applicant had assaulted the deceased by kicks and fist blows, which does not show that there was any intention to cause death of Shakti Bidlan. It is submitted that the injuries sustained by the deceased are also not found to be sufficient

to cause death in the ordinary course of nature, within the meaning of Section 300 of IPC. He submitted that the Applicant is aged more than 60 years and suffering from heart disease. The investigation is complete and the chargesheet is filed.

6. Learned APP has pointed out that a clarification was sought from the Medical Officer about the cause of death and as per communicated dated 8 July 2020 the reason for death although is shown as “Acute Respiratory Distress Syndrome secondary to Covid 19 infection”, the Medical Officer has clearly opined that the primary assault was so severe and significant that it would have been an ‘add on’ factor with Covid, due to which the patient died. He submitted that all the Accused had formed an unlawful assembly with the common object of causing death of Shakti Bidlan and therefore, the case of the Applicant cannot be distinguished on the basis of his individual role. He also submitted that there is recovery of an iron rod alongwith blood stained clothes from the Applicant.

7. I have considered the circumstances and the submissions made.

8. *Prima facie*, it appears that there was an altercation between Bablu Pardeshi and the deceased followed by a scuffle in which the deceased Shakti Bidlan had slapped Bablu Pardeshi who then called other co-accused including the present Applicant. *Prima facie*, it

appears from the statements of the witnesses as also the transcript of the CCTV footage that the Applicant was not carrying any weapon while the eye witnesses claim that deceased was assaulted by the Applicant by means of a stone. The transcript of the CCTV footage shows an assault by fist and kicks blows. In this case, there is no Post Mortem report obviously on account of the fact that the deceased was diagnosed with Covid 19 infection. The record shows that acute respiratory syndrome was one of the causes for death of Shakti Bidlan. Although, the prosecution claims that an iron rod was seized from the Applicant, the eye witness and CCTV footage does not attribute any assault by the Applicant using an iron rod.

9. The Chemical Analyser's report is not produced on record to show that the blood stained clothes of the Applicant, were bearing stains of the blood group of the deceased. That apart, the presence of the Applicant on the spot is not seriously disputed. The question is about the role attributed and the material produced. I find that the age and the medical condition of the Applicant is an additional factor to exercise discretion in favour of the Applicant.

10. In the result, the following order is passed.

ORDER

- (i) The Criminal Bail Application is allowed.
- (ii) The Applicant Raju Chatru Pardeshi, be released on bail in Crime No.478/2020 of Police

Station Wanwadi, District Pune, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

(iii) The Applicant shall undertake to remain present before the learned Sessions Judge during the course of trial, unless exempted.

(iv) The Applicant shall not directly or indirectly make any attempt to contact the prosecution witnesses or to otherwise tamper with the prosecution evidence.

(v) Bail bonds to be furnished before the learned Sessions Judge.

(vi) The Criminal Application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.