

deceased, namely, Shankar Govinda Sutar. On 22/08/2020 at about 00:15 hours when the informant heard commotion from outside the house, she stepped out and found his elder daughter-in-law, namely, Payal standing there. She enquired with Payal about the matter and then went near Hanuman Temple and found the deceased lying in a pool of blood and having been assaulted by means of sharp weapon. She became sure that on account of earlier quarrel accused Santosh Chougule, Ajay Kamble, Mohsin Shaikh and Pappu Pawar had assaulted his by means of sharp weapon. She then started crying loudly. Informant's brother-in-law's son, namely, Kumar Sangappa Sutar and others gathered and the deceased was taken to D.Y. Patil Hospital, Pimpri. It appears that during the course of treatment, the deceased succumbed to the injuries. The informant accordingly lodged the First Information Report (FIR).

3 Mr. Nikam, learned Counsel for the applicant, submits that the name of the applicant is nowhere revealed in the FIR. The learned Counsel then invited my attention to the statement of prosecution witness, namely, Payal Shivanand Sutar and would submit that her statement is a vague statement which does not in any manner specify the role of the applicant. Moreover, the investigation is over and chage-

sheet has been filed. The trial may take its own time. There is nobody in the family to look after his family members. Applicant, therefore, deserves to be released on bail, argued learned Counsel.

4 Ms. Dabholkar, learned APP, on the other hand, invited my attention to the statement of prosecution witnesses, namely, Kumar Sangappa Sutar, Amol Vilas Rathod and Sayyad Amin Patel and would submit that theses witnesses being eye witnesses have clearly point out the role played by the applicant in the incident. The offence being serious in nature, the present application does not deserve consideration, argued learned APP.

5 Perused the investigation papers.

6 As far as the submission of learned Counsel for the applicant that the name of the present applicant is not revealed in the FIR is concerned, there can not be dispute on that count. It is also pertinent to note from the contents of FIR that the applicant was knowing all the assailants and that is why she could give the names of those accused persons.

7 It is also pertinent to note from the FIR that when the informant stepped out from the house after hearing the commotion, her elder daughter-in-law was very much there. Therefore, the statement of Payal Shivanand Sutar assumes significant. Although, her statement has not been relied by the learned APP nor by the learned Counsel for the applicant, still it is full of significance. She states in her statement that she had seen the accused Papya Pawar, Ajay Bhise, Mosin Shaikh, Abhishek Ghanghav and Akash Punde(applicant), Rahulya Kamble, Muklya Kamble, Santosh Chougule and other 2-3 persons abusing and beating somebody. She then specifically points out the name of Papya Pawar and Abhishek Ghanghav as the persons, who were assaulting by means of a sickle. She got frightened and rushed towards her house. It is at that point of time her mother-in-law i.e. informant came and said that she would like to go there and find out. This witness also followed her mother-in-law. By the time those assailants had fled away towards the side of Hanuman Temple.

8 Reading of FIR and the statement of this material witness would show that both are at poles apart as to the incident in question. The informant nowhere states in her FIR that she had seen this witness running away and returning back to the house and told her that she

would go and see what is the matter. On the contrary, the FIR shows that when she came out from the house she found this witness standing there and after enquiring as to the matter went ahead to find out what had happened. The most important part of FIR is that the informant nowhere says that her own daughter-in-law, namely, Payal had not only seen the incident of assault but also gave roles played by those accused persons. This is so because the statement of Payal Sutar shows that she had witnessed the incident.

9 Similarly, the statement of Kumar Sangappa Sutar was on the same line as that of Payal Shivanand Sutar. But again the FIR shows that this witness came into the picture only when the informant started crying. This in itself goes to show that this witness had no occasion to see the incident.

10 Prosecution witness Amol Vilas Rathos's statement is more or less also on the same line as that of earlier witnesses. As far as the role of present applicant is concerned, his statement is omnibus and state that rest of the accused persons were beating the deceased by means of stone, fist and kick blows. His statement also does not give any indication that the applicant had used stone and had indulged in kicking

and giving fist blows to the deceased.

11 The last witness relied on by the prosecution is Sayyad Amin Patel but his statement appears to be of hearsay nature. According to him, he came to know about the incident from Amol Rathod. I have already discussed the statement of Amol Vilas Rathod herein-above.

12 Having regard to the material on record, and the glaring and serious inconsistencies amongst the version of informant and prosecution witnesses, in my considered view, the applicant has made out a case for bail. Hence, the following order.

ORDER

(i) Applicant-Akash Jambu Punde shall be released on bail in C.R. No. 506 of 2020 registered with Pimpri Police Station, District-Pune on his executing P .R. bond in the sum of Rs. 20,000/- with one or two sureties in like amount.

(ii) The applicant shall not tamper with the prosecution evidence and shall attend the trial regularly.

(iii) The observations made herein-above are prima-facie in its nature for the purpose of deciding the bail application only. The trial Court

shall not be influenced by the observations while deciding the case on merits.

(iv) Bail before the trial Court.

(v) The application is allowed in the aforesaid terms and stands disposed of accordingly.

(V. G. BISHT, J.)

REKHA
PRAKASH
PATIL

Digitally signed by
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