

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1472 OF 2020

Akshay Machhindra Hake

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr. Rupesh A. Zade for the Applicant.

Ms. M. R. Tidke, APP for the Respondent – State.

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CORAM : C.V. BHADANG, J.

DATE : 3 FEBRUARY 2022
(Through Video Conferencing)

P.C.

. By this Application, the Applicant-Accused No.4 is seeking bail. The Applicant along with others has been charge-sheeted for the offence punishable under Section 302, 212, 120B, 143, 147, 148, 149 of the Indian Penal Code and Section 4/25 of the Arms Act and Section 7 of the Criminal Law Amendment Act arising out of Crime No.112 of 2018 of Hadapsar Police Station, Pune.

2. According to the prosecution on 28 January 2018 at about 14.15 hours in front of Preeti Sangam Building, Cement Road, Hadapsar, Pune, the deceased Sujeet Varma was assaulted by the Applicant and the co-accused with sharp weapons on

account of which Sujeet Varma who was a history sheeter was injured. He was taken to the hospital only to be declared dead.

3. According to the prosecution the Applicants who are the active members of the Hindu Rashtra Sena had conspired to eliminate of the Sujeet Varma on account of a previous enmity as on 22 January 2018 the deceased and his associates had assaulted the Accused No.1 in this case.

4. The aforesaid crime was registered on the basis of the said FIR and after investigation a charge-sheet is filed.

5. I have heard the learned counsel for the Applicant and the learned Additional Public Prosecutor. With the assistance of the learned counsel for the parties, I have gone through the record.

6. At the outset it is necessary to mention that the earlier application for bail filed by the Applicant in Criminal Bail Application No.1694 of 2020 was disposed of as it was simplicitor withdrawn on 30 September 2021. This Court had made it clear that the Application was not heard on merits.

7. Be that as it may, the learned counsel for the Applicant submitted that none of the eye witnesses have named

the present Applicant and the name of the Applicant does not figure in the FIR. Although strictly a claim for the parity is not made it is submitted that the some of the co-accused are released on bail. The learned counsel pointed out that there is no recovery of any incriminating article from the present Applicant and the Applicant who was arrested on 5 February 2018 is in jail since then. It is submitted that the prosecution has cited several witnesses and the trial would take time.

9. The learned Additional Public Prosecutor has pointed out the statement of PI Prasad Lonare dated 20 January 2018 in which the Investigating Officer had recovered the CCTV footage from the spot in which the Applicant along with the co-accused Kiran Gundewar, Akshay Suryawanshi and Praveen Sutar are shown assaulting Sujeet Varma with sickle and other sharp weapons.

10. The learned Additional Public Prosecutor pointed out that none of these four accused have been released on bail. It is submitted that this Court had also noted, in the order passed in respect of the other accused, about four accused Kiran Gundewar, Akshay Suryawanshi, present Applicant Akashy Hake and Praveen Sutar being seen in the CCTV Footage.

11. The learned counsel for the Applicant submitted that there is no identification parade in respect of the persons seen in the CCTV footage conducted and therefore same may not be decisive.

12. I have considered the submissions made. The contention that the CCTV footage is not decisive cannot be accepted. *Prima facie* it shows that the Applicant along with co-accused Kiran, Akshay, Praveen having assaulted Sujeet Varma with sickle and other sharp weapons.

13. The record also discloses that the Applicants who are members of a Hindu Rashtra Sena prior to the incident had assembled in which according to the prosecution the conspiracy to eliminate Sujeet Verma was hatched and it was given effect to on the following day.

14. In such circumstances, I do not find that a case for grant of bail is made out. The Criminal Bail Application is rejected. The Sessions trial is hereby expedited.

C.V. BHADANG, J.