

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

CRIMINAL BAIL APPLICATION NO. 2968 OF 2021

Ajit Lahanu Gaikwad and Anr. ..Applicants
V/s.
The State of Maharashtra ..Respondent

Mr. Prashant Patil for the Applicants.
Mr. Y.Y.Dabke, APP for the Respondent/State.

CORAM : C.V. BHADANG, J.

DATE : 23 MARCH 2022

P.C.

. By this Application, the Applicants (Accused Nos.2 and 4), are seeking release on bail in Crime No. 236 of 2020 registered with Khed Police Station, Dist. Pune for the offences punishable under Section 302, 307, 323, 324, 326, 143, 147, 148, 149, 323, 504 and 506 of Indian Penal Code and Section 4 read with Section 25 of Arms Act.

2. The prosecution case as disclosed from the complaint lodged by Ramesh Gaikwad is that on 31 May 2020 at about 9.00 p.m. there was an incident in which one Ajit Lahnu Gaikwad and Sachin Gaikwad had come on their pulsar motor-cycle where the children of the cousin brother of the complainant

SNEHA
NITIN
CHAVAN

Digitally signed by
SNEHA NITIN
CHAVAN
Date: 2022.03.25
15:09:05 +0530

namely Nitin Gaikwad were playing. The complainant tried to persuade Ajit Gaikwad and Sachin Gaikwad to drive slowly where upon an altercation and incident of abuse and threatening took place which is the genesis of the incident which happened shortly thereafter in which one Lahnu Gaikwad and others are alleged to have formed an unlawful assembly. The complaint dated 31 May 2020 lodged by Ramesh Gaikwad shows that the present Applicant came on the spot in an Ertiga vehicle of one Pravin S. Gaikwad. The gravamen of the allegations made in the complaint dated 31 May 2020 are against Lahanu Gaikwad having assaulted the deceased Bhimaji Gaikwad by an iron rod on his head. There are also allegations about other members of the assembly including Sanket Gaikwad, Rushikesh Gaikwad, Sachin Gaikwad and Kunal Gaikwad having assaulted other members of the rival group. The complainant also suffered injury in the incident.

3. The injured Bhimaji Gaikwad was carried to the hospital where he died during the treatment on 06/06/2020. Initially, an offence of rioting with Section 326 of IPC was registered and on the death of Bhimaji Gaikwad, the offence under Section 302 of IPC was added and after investigation a chargesheet is filed. There are in all 26 accused against which the chargesheet is filed and the applicants are Accused Nos.2 and 4.

4. I have heard learned counsel for the applicants and the learned APP. With the assistance of the learned counsel for the parties, I have gone through the record.

5. It appears that the allegation insofar as the applicant Ajit Gaikwad is concerned is that, he had called the other members of the Assembly on the spot by making a call from his mobile and having carried the weapons in the car. However, it is not disputed on behalf of the prosecution, that there is no allegation against the Ajit Gaikwad of having taken part in the actual assault, which is attributable to the Applicant Ajit Gaikwad either on the deceased Bhimaji Gaikwad or any other member of the rival group. Insofar as Kiran Gaikwad is concerned, the allegation is that he assaulted Akshay Gaikwad, (the brother of the complainant) by means of a sickle, which is said to be recovered in a panchanama under Section 27 of the Evidence Act from the Applicant Kiran Gaikwad.

6. Learned counsel for the Applicants submits that the co-accused Pravin Gaikwad has been granted anticipatory bail by learned Sessions Judge and co-accused Sanket, Rushikesh, Sachin and Kunal have been granted bail by this Court by order dated 07/06/2021 in Criminal Bail Application No. 1180 of 2020.

7. It is also submitted by learned counsel for the applicants that, although there are allegations of assault by multiple persons

with different weapons on Bhimaji Gaikwad, there is only one external head injury on the person of Bhimaji Gaikwad stated in the Postmortem Report.

8. Considering the overall circumstances and particularly having regard to the fact that there are no allegations of having taken part in the actual assault against the Applicant Ajit Gaikwad and there are also no allegations of any assault which is attributable to the applicant Kiran on the deceased Bhimaji Gaikwad, I find that the Applicants can be released on bail. It is necessary to note that the co-accused Sanket, Rushikesh, Sachin and Kunal with the similar allegations of assaulting other members of the rival group have been released on bail by this Court.

9. Considering overall circumstances, the following order is passed.

ORDER

i) Applicant No.1 **Ajit Lahanu Gaikwad** and Applicant No.2 **Kiran Kailas Gaikwad**, be released on bail in Crime No. 236 of 2020 registered with Khed Police Station, District-Pune, on executing a PR Bond in the sum of Rs.25,000/- each with one or two solvent sureties each in the like amount.

ii) The Applicants shall undertake to remain present before the learned Sessions Court, during the course of trial, unless exempted.

iii) The Applicants shall not directly or indirectly tamper with the prosecution evidence/witnesses.

iv) In the event of breach of any of the conditions, the bail is liable to be cancelled.

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

vi) It is made clear that the observations herein are essentially of a prima facie nature and the learned Sessions Judge shall not be influenced by the same at the trial.

vii) Criminal bail application is disposed of in the aforesaid terms.

(C.V. BHADANG, J.)