

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2102 OF 2022

Sunny Suresh Jagtap .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr. S.R.Gaud i/b M.R. Gaud for the applicant.
Mr.S.H.Yadav, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 30th SEPTEMBER, 2022

P.C:-

1 Heard learned counsel for the applicant and the learned APP for state. The applicant is charged for the offences punishable under Sections 302, 396, 143, 147, 148, 149, 450, 452, 324, r/w 120 (b), 188, 269 of IPC, and Sections 4, 25 of the Arms Act and Section 37 (1), Section 135 of Maharashtra Police Act and Section 3 of Disaster Management Act.

He came to be arrested on 10/09/2020. On completion of investigation, the charge-sheet has been filed.

2. The leaned APP has invited my attention to the material compiled in the charge-sheet, which attribute that the applicant is the part of the criminal conspiracy, which ultimately resulted in death of one Utkarsh Dhumal.

From the statement of the complainant Aniket Gunjal, it is seen that, he has specifically narrated, that there was some animosity between the two branches of the family since one year. He refer to three incidents right from 2/9/2020 upto 4/9/2020, when ultimately the deceased was done to death. He specifically state, that on account of immersion of lord Ganesha, his friends has visited him and they continued to stay with him on 2/09/2020 and 3/09/2020. On 3/09/2020 they decided to consume liquor and therefore two of the friends Uttam and Harshwardhan were send out for fetching the liquor. Since they did not return for a long time they became anxious, and did not lock the grill which laid in the house. In the early hours at 2:00 a.m, when Utkarsh was talking with someone on the mobile in the passage, 5 to 6 persons suddenly barged into the room accompanied by Harshwardhan, who was asking the persons to rush away since Manish and Babbi were armed with Swords and they were accompanied by Rohit, Sunny, and Nishant. Uttakarsh was assaulted and he was found lying in pool of blood.

3. After he was taken to the hospital Harshwardhan narrated to the complainant, that when he along with Uttam had gone to fetch liquor, he was intercepted by Sunny i.e. present applicant and his associates and Sunny and Babbi hit him with a beer bottle, but since they never intended to eliminate Harshwardhan, they left him.

4. Statement of Harshwardhan, however give the true version

of what happened, when he left for fetching the liquor and he state that after he was assaulted and taken to the hospital since the assailants never intended to injure him, Sunny and Nishant arrived on the spot along with the main accused and other 2 to 3 unknown persons. It is narrated that they were armed with weapons and they hatched a conspiracy to kill the deceased. He was asked to assist them by opening the door and to gain an entry into the house, without letting him know, that the assailants were following him. He was made to sit on a bike and with an intention that he should not run away, Nishant also sat on the same bike. The accused persons accompanied on the other bike. Thereafter he took 5 accused persons in the lift to the 6th floor. He specifically named the said accused persons when they reached the 6th floor since it was found that the gate was not locked, Manish pushed Harshwardhan in and all the other accused persons gained an entry into the room. Manish and Gandya assaulted Utkarsh by Knifes and Swords and though Utkarsh attempted to rescue himself, he was unsuccessful. The entire incident is narrated in detail as to how the commotion has created.

5. The CCTV footage of the building is also recorded and the panchnama drawn on 12/09/2020, specifically record that at around 1:56 hours, six persons entered into the lift and the person in the locality identified the 5 persons out of them and he also state that Sunny Jagtap i.e. the present applicant and Dankya

were standing down. The CCTV footage record that one of the persons was armed with a Sword and within 5 to 7 minutes they all descended the stairs and existed of the building. The CCTV footage clearly record the presence of the applicant below the building.

6. The learned counsel would vehemently argue that he is not the assailant, who has actually participated in the assault when Utkarsh was done to death. However, considering the statement of Harshwardhan, he is part of the conspiracy, which was hatched, and for that purpose even Harshwardhan was assaulted and he participated into the entire act, in order to gain an entry in the room situated at 6th floor, where Utkarsh was assaulted. He face charge under section 147, 149 along with 120 B of IPC. Considering the gruesome manner in which the offence was committed, he do not deserve his release.

Apart from this, learned APP state that the applicant has eight antecedents to his credit and on three occasions prohibitory action was taken against him. Considering the criminal background of the applicant, the Application is rejected.

(SMT. BHARATI DANGRE, J.)