

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

BAIL APPLICATION NO. 2984 OF 2021

Santosh Devram Mankar @ Guddu
v/s.

.... Applicant

The State of Maharashtra

.... Respondent

Mr. Viral K. Rathod for the Applicant.
Mr. M.G. Patil, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 19th APRIL, 2022.

P. C. :-

. This is an Application under section 439 of Cr.P.C. filed by the aforesaid Applicant who is facing trial in Sessions Case No.368/2015 pending on the file of Additional Sessions Judge, Thane for offences punishable under section 109, 114, 143, 147, 148, 302, 307, 323, 325, 326, 506(II) r/w. 149 of the Indian Penal Code, sections 4 and 25 of the Arms Act and under sections 37(1)(a) and 135 of Maharashtra Police Act.

2. Heard Mr. Viral Rathod, learned counsel for the Applicant and Mr. M.G. Patil, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the First Information Report (FIR) lodged by Sayli Shankar Kadam, the widow of the deceased Bhaskar. The FIR prima facie reveals that on 15/12/2014, at about 11:30 p.m. to 11:45 p.m., the co-accused – Shankar Shinde had assaulted the deceased Bhaskar in view of which the police complaint was lodged on 16/12/2014. At about 01:30 a.m., the police had come in search of the Applicant but he was not found. On the same day, at about 02:00 a.m., the Applicant along with the co-accused and 03 to 04 other persons came near the house of the deceased armed with chopper, knife, etc. and assaulted him by means of sword and caused his death. It is also stated that when the family members of the deceased tried to intervene, the accused assaulted them and caused injuries.

4. The first informant had not named the Applicant in the FIR dated 16/12/2014. The complainant has implicated the Applicant in the statement under section 161 of Cr.P.C. recorded on 23/01/2015 wherein the complainant had alleged that the Applicant was also present at the place of the incident and that he was armed with a wooden stick. The complainant does not claim that the Applicant had assaulted the deceased by the said stick. He had allegedly assaulted

Nilesh Sonawane, Smita Mungekar, Kiran Sathe and Atul Bhandare.

5. The statement of Nilesh Sonawane also prima facie reveals that the Applicant was present at the place of the incident. He states that the co-accused – Shankar Shinde and others had assaulted the deceased – Bhaskar by knives, wooden sticks and iron rods. Prima facie, there appears to be inconsistency in the statement of the complainant and the witnesses as regards the role of the Applicant in assaulting the deceased. It is to be noted that the post mortem report does not indicate that the deceased had sustained any injury which was caused by a blunt object. This fact prima facie casts doubt about the veracity of the statement of the witnesses.

6. The Applicant was arrested on 23/12/2014 and he is languishing in jail since then. It is also stated that the charge is not yet framed. Considering the large pendency, trial is not likely to conclude within the reasonable time. Considering the above facts and circumstances and particularly the nature of accusations against this Applicant and the material in support thereof, in my considered view, this is a fit case for grant of bail. Hence, the Bail Application is allowed on following terms and conditions :-

(i) The Applicant who is facing trial in Sessions Case

No.368/2015 pending on the file of Additional Sessions Judge, Thane is ordered to be released on bail on furnishing P.R. bonds in the sum of Rs.25,000/- with one or two solvent sureties in the like amount ;

- (ii) The Applicant shall report to PI of Kalwa Police Station, District Thane on every 1st Monday of the month between 11.00 a.m. to 02.00 p.m. until further orders;
- (iii) The Applicant shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The Applicant shall keep the Trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.
- (v) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted.

7. Bail Application stands disposed of in above terms.

**PREETI
H JAYANI**

Digitally signed by
PREETI H JAYANI
Date: 2022.04.22
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(SMT. ANUJA PRABHUDESSAI, J.)