

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3311 OF 2021

Yashwant Vitthal Bhorkade	..Applicant
v/s.	
The State of Maharashtra	..Respondent.

Mr. A. A. Mundaragi, Sr. Advocate a/w Priyanka Gharge and
Mr. Umesh H. Pawar for the Applicant.
Mr. Ms. Prajakta P. Shinde, APP for the Respondent-State.

CORAM: VINAY JOSHI, J.
DATED : 4th MAY, 2022.

P. C.:

1. The Applicant is seeking regular bail in terms of Section 438 of the Code of Criminal Procedure in C.R. No. 80 of 2021 registered with Vaduj Police Station, Dist: Satara for offences punishable under Sections 302, 143, 147, 148, 149, 323, 201 of the Indian Penal code and under Sections 3 read with Section 25 of the Indian Arms Act.

2. The learned senior counsel appearing for the applicant canvassed that there is no incriminating material against applicant to show his involvement in the crime. Merely, on suspicion applicant has been falsely implicated

in the crime. Moreover, bail is claimed on the ground of parity with co-accused having similar role. The State Resisted bail by pointing towards seriousness of the offence. It is contended that deceased Jagdeep, a manager working in the company was murdered. The offence is of serious nature, which may attract capital punishment. Having regard to said fact, the application is prayed to be rejected.

3. At the instance of report lodging by police officer dt. 11.03.2021 the crime was registered against some of the co-accused. The informant was not the eye witness to the occurrence. It is the prosecution case that deceased Jagdeep was working as General Manager (processing) in the company which is a sugar factory. It was transpired that there was large scale of misappropriation in the factory. The management suspected that the deceased Jagdeep for misappropriation.

4. On 10/03/2021 in between 5 to 8 p.m. co-accused called deceased in his cabin for inquiry. At that time deceased was assaulted by fiber sticks, fist blows and

kicks. In the late evening Jagdeep was taken back to his house by some relatives. At that time Jagdeep made oral dying declaration to his wife Ashwini and Ashiwini's brother Vikram that he has been assaulted by co-accused. In said oral dying declaration there was no disclosure about presence of applicant on the spot. Supplementary statements were recorded on the following day. Deceased succumbed to the injuries.

5. With assistance of both sides, perused police papers. Though application was identified in prior T.I. parade, however, the identifying witnesses are not the eye witness nor they have specified the role of applicant. Some statements only convey that applicant was present in the factory but no specific role has been ascribed to him. It reveals that one iron rod was seized at the instance of applicant but there were no blood stains nor there are allegations about assault by means of iron rod. The learned prosecutor is unable to point out any material to show direct complicity of the applicant in the crime.

6. Though there are 14 accused, several have been

released on bail. The main accused namely Manoj, Samgram are in jail. This court has released co-accused Rohit Kolugade, Shubham Gadge, Ranjit Suryawanshi on bail in Bail Application No.3048 of 2021 whilst another co-accused Ashok Nalawade has been released in Bail Application No.2667 of 2021. The prosecution is unable to point out any distinguishing feature to deny the rule of parity except seizure of iron rod. Notably there were no eye witnesses nor allegations of assault by iron rod. The role of applicant cannot be greater than the co-accused, who are released on bail. In the circumstances, the applicant deserves the same treatment by invoking the rule of parity. Having regard to all above circumstances the applicant has made out a case for grant of bail. In view of that following order.

ORDER

(a) The Applicant namely Yashwant Vitthal Bhorkade in Crime No.80 of 2021 registered at Vaduj Police Station, Dist: Satara, for the offences punishable under Sections 302, 143, 147, 148, 149, 323, 201 of the Indian Penal Code, be released on bail his furnishing P. R.bond of Rs.25,000/- with one or two sureties in the like amount.

- (b) The applicant shall attend the concerned Police Station on every first Saturday of the month in between 10.00 a.m. to 12.00 noon for the period of one year from today.
- (c) The applicant shall furnish his cell number and residential address to the investigation agency.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and also shall not temper with the prosecution evidence.

7. The above observations are made on *prima facie* basis which has no impact on the merits of the case.

8. The application stands disposed of in above terms.

(VINAY JOSHI, J.)