

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3202 OF 2021**

Rajesh Bhimrav Manjrekar	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Yuvraj P. Narvankar, for Applicant.
Mrs. J.S.Lohakare, APP, for State.

CORAM: N.J.JAMADAR, J.

DATE : 22nd JUNE, 2022

P.C.

1. This application is preferred by the Applicant to enlarge him on bail in connection with C.R.No.150 of 2019 registered with Bhosari Police Station for the offences punishable under Sections 302, 307, 143, 147, 148, 149 of the Indian Penal Code, 1860 and Section 4 read with Section 25 of the Arms Act, 1959 and Section 37(1)(3) read with Section 135 of the Maharashtra Police Act, 1951 .

2. The prosecution case runs as under :

2.1 Aniket, the first informant, is a nephew of Sunil Aarade (the deceased). On 4th February, 2019 at about 10.00 p.m. the deceased called the first informant on cell phone and asked him to come to Bopodi as the deceased had an altercation with the boys from the group of Ravi Manjrekar, who was running an illegal gambling den at Dapodi. The first informant came towards Bhopodi along with his friends Kiran, Salman and Reynold. The deceased met them on the way and asked them to proceed

towards Dapodi. The deceased went ahead alone, on an Active moped. The first informant noticed that some boys accosted the deceased. Mr. Ravi Manjrekar and his associates including the Applicant, were arguing with the deceased. Noticing the first informant and his friends, Ravi Manjrekar and his associates and the Applicant went away. They, however, returned immediately armed with weapons. Mr. Ravi Manjrekar and Hrishikesh Dhotre were armed with scythe. The Applicant - Mr. Rajesh Manjrekar and Sandeep Jadhav were armed with wooden log. Ravi Manjrekar and the Applicant caught hold of the deceased. Ravi Manjrekar assaulted the deceased by means of scythe on the left leg. Thereafter, Rohit Manjrekar, the Applicant - Rajesh Manjrekar and Hrishikesh Dhotre gave blows by means of cement block, stone and wooden log. When the first informant went to rescue, Rohit Manjrekar gave a blow by means of cement pipe on his head. His friends Salman and Reynold were assaulted by the Applicant and others. The deceased succumbed to the injuries. Hence, a report was lodged.

3. The learned Advocate for the Applicant submitted that Sandeep Jadhav, co-accused, who is similarly circumstanced, has been enlarged on bail. Thus, on the principle of party as well, the Applicant is entitled to be released on bail.

4. The aforesaid submission appears to carry substance. In the FIR, the Applicant, like Sandeep Jadhav, who has been released on bail, was not named as a member of the unlawful assembly in prosecution of the common object of which the

offences were allegedly committed. Nor any overt act was attributed to the Applicant. According to prosecution, both Sandeep Jadhav and the Applicant were allegedly armed with wooden log. Sandeep Jadhav and the Applicant allegedly assaulted the deceased and first informant by means of stick, fist and kick blows. The role attributed to Sandeep Jadhav and the Applicant thus, prima facie, appears to be identical.

5. In this context, while releasing Mr. Sandeep Jadhav on bail in Bail Application No.916 of 2021, this Court, in its order dated 16th March, 2021 inter alia observed as under :

“8. The informant’s case is that 10 to 12 persons had assaulted the deceased and the informant with their respective weapons. Significantly, he has not named any one of them. However, surprisingly, in his supplementary statement dated 15/4/2019, he has given names of many assailants including the present applicant. It is mentioned in that statement that the applicant with wooden stick had assaulted the informant. The roles of assault on the deceased is given to Ravi Manjrekar, Rohit, Rajesh and Rishikesh.

9. The informant Aniket identified the applicant in the identification parade, which was held on 12/07/2019 i.e. after three months of recording of his supplementary statement. Once the names were mentioned in the supplementary statement, there was no occasion to hold identification parade. In any case, co-accused Abhijit Khandagale, who is similarly identified in the test identification parade, is granted bail by this Court (Coram:Prakash D. Naik, J.) vide order dated 09/01/2020, passed in Criminal Bail Application No. 2417 of 2019. Thus principles of parity apply to the present applicant, as far as test identification parade is concerned. The other eye witnesses Renold and Salman have not named the present applicant. The only remaining incriminating piece of evidence is in respect

of the recovery of Bolero car at the instance of the present applicant. However, in the statement recorded under section 27 of the Evidence Act, place at which the car was parked or concealed was not mentioned in the statement itself. Therefore it is doubtful whether it satisfies all the requirements of Section 27 of the Evidence Act. In this view of the matter, considering these factors, applicant can be released on bail.”

6. The aforesaid reasons govern the case of the Applicant with equal force. The fact that the Applicant was not named as one of the assailants in the FIR and the name of the Applicant surfaced well after two months in the supplementary statement of the first informant, cannot be said to be either immaterial or inconsequential. To add to this, the Applicant was not named as one of the members of the unlawful assembly either by Salman or Reynold, the friends of the first informant, who allegedly attempted to rescue the deceased.

7. The learned APP submitted that another offence has been registered against the Applicant with Bopodi Police Station and in the light of the antecedents of the Applicant and his associates, the Applicant does not deserve to be enlarged on bail.

8. I have perused the statement enumerating the offences registered against the Applicant and the co-accused. C.R.No.44 of 2012 for the offences punishable under Sections 143, 147, 148, 149, 452, 324, 504 read with Section 34 of the Indian Penal Code was registered against the Applicant. It appears that the Applicant was acquitted by the Court on 4th September, 2015. I am afraid the aforesaid offence can now be pressed into service to oppose the prayer of bail.

7. In the aforesaid view of the matter, I am not persuaded to accede to the submission of the learned APP that the antecedents of the Applicant are such that they disentitle him from the relief of bail. The investigation is complete for all intent and purpose. Charge sheet has been lodged. The possibility of fleeing away from justice appears to be remote. I am, therefore, inclined to exercise the discretion in favour of the Applicant. Hence, the following order :

ORDER

- (i) The Application stands allowed.
- (ii) The Applicant – Rajesh Bhimrao Manjrekar in C.R.No.150 of 2019 registered with Bhosari Police Station for the offences punishable under Sections 302, 307, 143, 147, 148, 149 of the Indian Penal Code, 1860 and Section 4 read with Section 25 of the Arms Act, 1959 and Section 37(1)(3) read with Section 135 of the Maharashtra Police Act, 1951, be released on bail on furnishing a PR bond in the sum of Rs.25,000/- and one or two sureties in the like amount.
- (iii) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.
- (iv) The Applicant shall furnish his permanent residential address and contact details to the Investigation Officer within a period of one week of his release from the prison.
- (v) The Applicant shall regularly attend the proceedings before the

jurisdictional court.

(vi) By way abundant caution, it is clarified that the observations hereinabove are confined to the consideration of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant.

(N.J.JAMADAR,J.)