

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3284 OF 2021**

Sachin Ashok Langdapure ... Applicant
versus
The State of Maharashtra ... Respondent

Mr. Ujwal R. Agandsurve i/by Mr. Prashant C. Mohite, for Applicant.
Mr. A.A.Palkar, APP, for State.
Mr. Prashant Relekar, PSI Chakan Police Station, Pimpri Chinchwad, present.

CORAM: N.J.JAMADAR, J.

DATE : 5th JULY, 2022

P.C.

1. The Applicant is arraigned in C.R.No.291 of 2019 for the offences punishable under Sections 120B, 302, 307, 341, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code, 1860 and Section 4 read with Section 25 of the Arms Act and Section 7 of the Criminal Law Amendment Act, 2013, and Sections 37(1) (ii) read with Section 135 of the Maharashtra Police Act, 1951.

2. The prosecution case runs as under :

Piyush Shankar Ghadge, the first informant is the resident of Chakan, Tal. Khed, Pune. On 12th January, 2018, a gathering of Samarth Hospital was organized at Shreya Lawns Mangal Karyalaya, Navekar Wadi. The accused Aakash Rajabhau Shinde, Akshay Anil Lomte and 'X', a child in conflict with law, had also came for the said gathering. An altercation had ensued between the first informant

and Aakash Shinde. Since the said incident, Aakash, Akshay Lomte and 'X' had a grudge against the first informant.

3. On 8th February, 2019 at about about 6.00 p.m., Prashant Biradwade, a friend of the first informant, called him. They proceeded on a motorcycle bearing No.MH-14/CK-6106 to Sara Orchid Society to meet Mangesh Lendghar, who was to undertake the electrification work in the shop of the first informant. On their way back, when they reached in front of Kushal Krunali Society, Talegaon Chakan Road, Aakash Shinde, Pangya Landge, Bafan Landge, Akshay Lomte, Babya Rajguru, 'X' and the Applicant - Sachin Langadapure came thereat on motorcycles. They intercepted the first informant and the deceased. Aakash Shinde, Pangya Landge, Bafan Landge, Rajguru and 'X' were armed with scythes. Akshay Lomte had an iron rod. The Applicant had a wooden log. They abused the first informant. Aakash Shinde gave a blow by means of scythe on the head of the first informant. 'X' also inflicted a blow by means of scythe on the had of the first informant. Akshay Lomte gave a blow by means of iron road on the head of the first informant.

4. When Prashant Biradwade (the deceased) came to his rescue, the accused Pangya Landge, Bafan Landge and Rajguru assaulted him by means of scythe in quick succession. The first informant went aside to save his life. The accused assaulted the deceased by means of scythe, iron rod, and wooden log.

5. Abhishek Pansare, who had known the first informant and the deceased,

came thereat. The accused charged on him also. He fled away. After the assailants fled away, the first informant's friends Kiran Jumbkar and Chetan Ghadge came thereat and shifted the first informant and deceased to the hospital. The deceased succumbed to the injuries.

6. The Applicant was arrested on 9th February, 2019. Co-accused were also arrested. Post completion of investigation, charge sheet has been lodged.

7. The Applicant has preferred this application for bail on the ground that the presence of the Applicant at the scene of occurrence is not established. The Applicant had no previous enmity with the first informant and the deceased. No role of assault by deadly weapon has been attributed to the Applicant. At best, the Applicant is attributed with the role of being a member of an unlawful assembly and armed with a wooden log. In the circumstances, the Applicant deserves to be released on bail.

8. I have heard Mr. Agandsurve, learned Counsel for the Applicant and Mr. Palkar, learned APP for the State. I have perused the report under Section 173 of the Code of Criminal Procedure, 1973 and the documents annexed with it.

9. The learned Counsel for the Applicant took the court through the FIR lodged by the first informant / injured and Abhishek Pansare, who was referred to as the eye witness to the occurrence by the first informant. Emphasis was led on the fact that in the FIR, the Applicant was attributed with the role of being armed with a

wooden log. No role of mounting assault either upon the deceased or the first informant has been attributed to the Applicant. Mr. Abhishek Pansare, the alleged eye witness, according to the learned Counsel for the Applicant, does not claim to have even witnessed the occurrence. He simply states that he was chased by Aakash, Pangya Landge and 'X', at some point of time, in the past.

10. The learned APP, on the other hand, submitted that the Applicant was a member of the unlawful assembly in prosecution of the common object of which serious offences of murder and attempt to commit murder have been committed. Since the presence of the Applicant at the scene of occurrence armed with a wooden log, is reflected from the FIR, at this juncture, the constructive criminality of the Applicant for the offences of murder and attempt to commit murder, which were committed in prosecution of the common object of the unlawful assembly, can be said to have been prima facie made out. Having regard to the grave nature of the offences, the Applicant does not deserve to be released on bail, urged learned APP.

11 I have given my anxious consideration to the aforesaid submissions. First and foremost, it is imperative to note that the deceased had sustained as many as 26 external injuries. Evidently, the deceased was assaulted brutally and relentlessly. However, most of the injuries were incised and stab wounds caused by sharp weapons. There were fractures of parietal bone left side posterior aspect of scalp. Multiple stab incised wounds were noted over scalp parietal region. In the opinion of the medical

officer, the deceased died on account of severe intracranial hemorrhage with polytrauma.

12. It would be contextually relevant to note that the injury certificate of the first informant revealed that the first informant had sustained CLWs over the head with history of assault by means of sharp weapon.

13. If the allegations in the FIR are construed in conjunction with the aforesaid external injuries noted in the PM report and the injury certificate of the first informant, it prima facie appears that both the deceased and the first informant were primarily assaulted by sharp weapons and iron rod. The first informant attributes the role of assault by means of scythes to Akshay Shinde and 'X'. Aakash Lomte allegedly assaulted him by means of an iron rod. For the first informant, the deceased was assaulted by Pangya, Bafan and Babya by means of scythes. The first informant further alleges that all the accused unleashed blows by means of scythe, iron rod and wooden log on the deceased.

14. The situation which thus obtains is that the Applicant was allegedly armed with a wooden log. The co-accused were armed with deadly weapons. The injuries sustained by the deceased and the first informant, prima facie, appear to have been caused by those deadly weapons. The role attributed to the Applicant, thus, appears to be distinct from that of the assailants who were armed with deadly weapons. To add to this, there is no specific allegation that the Applicant either

assaulted the deceased or the first informant.

15. Though the first informant claimed that Abhishek witnessed the alleged assault, yet the statement of Abhishek does not lend support to the said version. Abhishek claimed that on the day of occurrence, after he returned home at about 7.30 p.m., he learnt that the deceased and first informant were assaulted by the co-accused and the Applicant. Even in the supplementary statement of the first informant – Piyush, no specific role appears to have been attributed to the Applicant. On the contrary, Piyush stated that co-accused Bafan was not present at the scene of occurrence and did not participate in the murderous assault.

16. The investigation is complete for all intent and purpose. Charge sheet has been lodged. The Applicant has been in custody since 9th February, 2019.

17. In the totality of the circumstance, on account of the role attributed to the Applicant, in my view, a prima facie case for exercise of discretion in favour of the Applicant is made out. The Applicant appears to have roots in the Society to tie him down to his place of abode. The apprehension on the part of the prosecution can be taken care of by imposing appropriate conditions. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Sachin Ashok Langdapure be released on bail in C.R.No.291 of 2019 registered with Chakan Police Station, Pune, on furnishing a PR

bond in the sum of Rs.30,000/- and one or two sureties in the like amount, to the satisfaction of the learned Sessions Judge, Pune.

(iii) The Applicant shall mark his presence at Chakan Police Station on the first day of every alternate month till the framing of charge.

(iv) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

(v) The Applicant shall furnish his residential address as well as contact details to the Senior Inspector of Police, Chakan Police Station and update the same in case of any change therein.

(vi) The Applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) 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 and the learned Sessions Judge shall decide the case on its own merits, in accordance with law, uninfluenced by any of the observations made in this order.

(N.J.JAMADAR, J.)