

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3557 OF 2021**

Vinit Mangesh Londhe ... Applicant
versus
The State of Maharashtra ... Respondent

Mr. Aniket Nikam i/by Mr. Amit Icham, for Applicant.
Mr. P.H.Gaikwad, APP, for State.
Mr. Uttam Chakre, PI, Yerwada Police Station, present.

CORAM: N.J.JAMADAR, J.

DATE : 14th JULY, 2022

P.C.

1. The Applicant who is arraigned as Accused No.5 in C.R.No.1791 of 2020 registered with Yerwada Police Station, Pune, for the offences punishable under Sections 302, 143, 144, 147, 148, 149, 188, 269, 323 of the Indian Penal Code, Section 3 of the Epidemic Act, 1897, Section 51(b) of the Disaster Management Act, and Section 135 read with Section 37 of the Maharashtra Police Act, 1951, has preferred this Application to enlarge him on bail.

2. The indictment against the Applicant and the co-accused is that :

Pratik Hanumant Wannale (the deceased) was the resident of Panchasheel Nagar, Yerwada, Pune. On 25th May, 2020 an altercation had ensued between the deceased and co-accused Taiyab Shaikh and his friends. On account of the said incident, the co-accused Taiyab Shaikh and his friends, including four

children in conflict with law, went in search of the deceased after forming an unlawful assembly. While the deceased was on his way to his home along with his relative Avinash Gamre, he was called by one of the children in conflict in law. The deceased was taken to the mental hospital ground. The deceased was assaulted by the co-accused, Applicant and the children in conflict with law by means of an axe, stones and fist and kick blows.

3. Initially, a report was lodged by Hanumant Hiranman Wannale, father of the deceased on the basis of the information furnished by the persons who had gathered at the mental hospital ground after hearing commotion. During the course of investigation, statements of witnesses including Sagar Jagtap, who claimed to be an eye witness, were recorded.

4. Sagar Jagtap stated that on the day of occurrence at about 8.00 p.m., while he was on his way to home, Ameen Javed Shaikh - accused No.1, Taiyab I. Shaikh - Accused No.2 and Navin @ Bacchu Wadavrao - Accused No.4 and four children in conflict with law, were assaulting the deceased. A child in conflict with law was armed with an axe. He unleashed blows by means of axe on the head of the deceased. Rest of the accused and the children in conflict with law assaulted the deceased by means of fist and kick blows. He raised alarm. Thereupon, the assailants fled away.

5. Another witness Mr. Manohar Pawar also claimed to have witnessed the

occurrence. According to him, out of the assailants, a person who was wearing pink kurta assaulted the deceased by means of axe. Thereafter, another assailant who was wearing white kurta, assaulted the deceased by means of the same axe.

6. In the aforesaid backdrop, the learned Counsel for the Applicant submitted that there is no material to show that the Applicant was one of the assailants. Mr. Sagar Jagtap, an eye witness to the occurrence, who claimed to have known all the assailants, had not named the Applicant. Nor Mr. Manohar Pawar identified the Applicant as one of the assailants. The endeavour of the prosecution to implicate the Applicant on the basis of the images in the CCTV footage is also not sustainable. Therefore, the Applicant deserves to be enlarged on bail.

7. The learned APP, on the other hand, banked upon the panchanama of CCTV footage dated 2nd July, 2020. In the said panchanama, it is recorded that the image captured at 19.51.13 in Camera No.5 revealed that three persons were proceeding on a white Activa. An unknown person was riding the said Activa. Two children in conflict with law were the pillion riders. Mr. Shankar Mahadev Wagdurge, in his statement, informed the Police that the person who was riding the said Activa, is the Applicant, and the pillion riders were a child in conflict with law and Rahul Tanaji Bhosale – accused No.3.

8. I have carefully perused the statements of the witnesses and the panchanama of the CCTV footage. Apparently, Mr. Sameer Jagtap who not only

claimed to have witnessed the occurrence, but also shouted at the assailants and took the deceased to hospital, claimed that he had known all the assailants, and yet the Applicant was not named as one of the assailants. Mr. Manohar Pawar, on the other hand, only described the assailants and the deceased by the clothes they were wearing. Admittedly, no test identification parade was held to fix the identity of the persons whom Manohar Pawar claimed to have seen at the time of occurrence. Thus, prima facie, the submission on behalf of the Applicant that the Applicant was neither named as the assailant, nor the description of the assailants given by Mr. Manohar Pawar matches that of the Applicant, appears to carry substance.

9. The Panchanama of the CCTV footage shows that an unknown person was riding Activa. Mr. Shankar Mahadev Wagdurge professed to identify the person who was riding the said Activa as the Applicant. However, there seems slight discrepancy. Mr. Wagdurge claimed that the second pillion rider was co-accused No.3 Rahul Bhosale, whereas the panchanama of the CCTV footage identified the said person as one of the children in conflict with law.

10. Indeed, the post mortem report indicates that the deceased was brutally assaulted by means of deadly weapons. Undoubtedly, there were more than one assailants. However, at this juncture, the material on record, prima facie, does not establish the identity of the Applicant as one of the assailants of the deceased. The investigation is complete. The Applicant is in custody for more than 2 years. The

Applicant seems to have a permanent place of abode. 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 – Vinit Mangesh Londhe be released on bail in C.R.No.1791 of 2020 registered with Yerwada 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.
- (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 Inspector of Police, Yerwada Police Station within a week from his release from prison, and intimate the change, if any.
- (v) The Applicant shall regularly attend the proceedings before the jurisdictional Court.
- (vi) The Applicant shall mark his presence at Yarwada Police Station on first Monday of September, January and April in between 10.00 a.m. to 12.00 noon for a period of two years or till the conclusion of the trial, whichever is earlier.
- (vii) By way of 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 co-accused.

(N.J.JAMADAR, J.)