

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3950 OF 2021

Atish @ Atyachar Mujesh Kale ..Applicant

V/s.

The State of Maharashtra ..Respondent

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Mr. S.P. Barsawade for the Applicant.

Mr. A.R. Kapadnis, APP for the Respondent/State.

PSI Ashok Raut, Koregaon Police Station present.

CORAM : C.V. BHADANG, J.

DATE : 4 MARCH 2022

P.C.

1. By this application, the Applicant (Accused No.7) is seeking release on bail in Crime No. 214 of 2020 of Police Station Koregaon, District Satara under Section 302, 143, 147, 148 read with Section 149 of IPC.

2. The aforesaid crime, is registered on the basis of the complaint dated 05.07.2020 lodged by Kajya Kale, the father of the deceased Vijay Kale. According to the informant, on 05.07.2020 at about 11.30 a.m., the Applicant and the co-accused entered into his house and assaulted the deceased by stick and kick and fist blows. The deceased Vijay Kale tried to save himself by fleeing from the spot. However, the accused followed him and

on account of assault, Vijay Kale sustained injuries to which he succumbed.

3. Heard learned counsel for the parties. Perused record.

4. In this case, after investigation, the chargesheet is filed. The record further discloses that co-accused Atikraman Kale and Sachin Bhosale have been released on bail by this Court in Criminal Bail Application No. 188 of 2021 by order dated 16.02.2021.

5. The learned counsel for the Applicant sought parity with co-accused Atikraman Kale and Sachin Bhosale on the ground that the role attributed to these co-accused is similar to the role attributed to the present Applicant.

6. The learned counsel further submitted that the postmortem report shows only one external injury namely an incised wound over the thigh. It is submitted that it is improbable, the deceased would sustain only one surface injury, if he was assaulted by as many as 9 persons.

7. The learned APP in all fairness did not dispute that role attributed to the Applicant is similar to the co-accused Atikraman Kale and Sachin Bhosale inasmuch as the Applicant had caught

hold of deceased when he was assaulted. The learned APP further submitted that Applicant had absconded and has been recently arrested on 13.08.2021. He also submitted that there are criminal antecedents against the Applicant.

8. I have considered the circumstances and the submissions made. Once it is found that the Applicant would be entitled to parity with co-accused Atikraman Kale and Sachin Bhosale, I do not find that for the reason that the Applicant has been recently arrested can come in the way of the Applicant being released on bail. The record discloses that the role attributed to the Applicant is that he had caught hold of the deceased when he was assaulted by the co-accused. Regard can also be had to the submission on behalf of the Applicant that in the face of allegations of assault by as many as 9 accused, there is only one surface injury found on the person of the deceased. This is not the stage where the material can be appreciated in details. The apprehension expressed on behalf of the prosecution on account of the criminal antecedents and the misuse of the bail can be taken care of by imposing strict conditions.

9. Hence, the following order is passed.

ORDER

i) The Applicant **Atish @ Atyachar Mujesh Kale** be released on bail in Crime No.214 of 2020 registered with

Koregaon Police Station, District Satara on executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

ii) The Applicant shall undertake to remain present before the learned Sessions Judge, during the course of trial, unless exempted.

iii) The Applicant shall report to the concerned Police Station once in every month on the first Monday during the course of trial.

iv) The Applicant shall not tamper with the prosecution evidence/witnesses.

v) In the event of breach of any of the conditions, the bail is liable to be cancelled.

vi) Bail bonds to be furnished before the learned Sessions Judge.

vii) It is made clear that the observations herein are essentially of a prima facie nature and the learned Sessions Judge shall not be influenced by the same at the trial.

viii) Criminal bail application is disposed of in the aforesaid terms.

(C.V. BHADANG, J.)