

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 2784 OF 2022

Atul Sanjay Kamble

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Shailesh Chavan for Applicant.

Mr. S. R. Agarkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 21st NOVEMBER 2022

PC :

1. The Applicant is seeking regular bail in connection with C.R.No.164 of 2018, registered at Nigdi police station, under sections 307, 143, 144, 147, 148, 149 of I.P.C. and U/s.37(1) r/w. 131 of the Maharashtra Police Act. Subsequent to the death of the deceased Devanand Mandale, Section 302 of I.P.C. was added. This is a second bail application. Earlier, the applicant had preferred Criminal Bail Application No.293 of 2019. It was withdrawn. That order was passed on 01/08/2019. More than three years have passed. In the meantime, there is no progress in the trial. One of the co-accused Sushil @ Bobdya Jagannath Chavan was granted

bail by this Court (Coram: Revati Mohite Dere, J.) vide order dated 06/09/2021 passed in Criminal Bail Application No. 1160 of 2020.

2. Learned counsel Shri. Chavan appearing for the applicant submits that, he is claiming parity with the co-accused Sushil Chavan and also claiming change in circumstance for preferring this bail application.

3. I have heard both the sides and I have perused the charge-sheet annexed to this application. The F.I.R. is lodged by one Sunny Kothbire about the incident dated 07/03/2018. One Ambadas Katkar was having grudge against Devanand on some petty issue. Earlier, an incident had taken place on 03/03/2018. At that time, Devanand had slapped Ambadas, therefore, Ambadas was angry with him. On the date of incident, he collected his friends including the present applicant and co-accused Sushil Chavan. They encircled Devanand and assaulted him. There are allegation that the applicant and Sushil Chavan were carrying swords and because of that nobody came to rescue Devanand. Significantly, both these accused i.e. the applicant and Sushil

Chavan are not named in the F.I.R. However, there are statements recorded of other eye witnesses namely Mohammed Korbu, Amol Sonkamble, Deepak Vede, Faizal Pathan etc. Even the first informant has given his supplementary statement on 09/03/2018. All these statements are very similar. They have mentioned that the applicant and Sushil Chavan were carrying swords. The blow which they have seen was given by Ambadas. This was one of the considerations while granting bail to Sushil Chavan. Learned counsel for the applicant relied on the order granting bail to Sushil Chavan. It does appear that, there is parity between the role attributed to Sushil Chavan and the present applicant. Even the evidence collected against them is the same. The sword is recovered from the applicant, as well as, another sword is recovered from the co-accused Sushil Chavan. Thus, qualitatively and quantitatively there is no difference in the material against Sushil Chavan and the present applicant. Therefore, in this case, parity applies. There is change in circumstance and there is also passage of time. The trial has not started, therefore, it is not likely to conclude soon.

4. Learned APP could not dispute these facts. Therefore, in the changed circumstance and on the ground of parity, the applicant deserves to be released on bail.

5. Hence, the following order.

O R D E R

i) In connection with C.R.No.164 of 2018, registered at Nigdi police station, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.30000/- with one or two sureties in the like amount.

ii) The Applicant shall report to the concerned police station once in every month till framing of Charge.

iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)