

Anand

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

BAIL APPLICATION NO. 4306 OF 2021

Rahul Anil Shinde

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr. Akshay R. Kapadia, Advocate, for the Applicant

Mr. R. M. Pethe, APP, for the Respondent – State

CORAM : VINAY JOSHI, J.

DATE : 02.05.2022

P. C.

. The applicant is seeking regular bail in C. R. No. 41 of 2021 registered with the Shivajinagar Police Station, Kolhapur for the offence punishable under Sections 302, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code and under Sections 25 & 4 of the Arms and Ammunition Act.

2. The State strongly opposed the bail by contending that the applicant has actually participated in the commission of crime. The offence is of serious nature which may attract capital punishment.

3. At the instance of report lodged by the informant dated 24.01.2021 the crime was registered. The incident was outcome of local political rivalry. The victim has specifically stated the incident naming several assailants. The role assigned to the applicant is that at the relevant time, he has assaulted the deceased – Sandeep by means of wooden circular instrument used in handloom work. There are several eye witnesses, who co-equally stated the specific role of applicant.

4. It is the prosecution case that at the relevant time, all 10-15 persons have accosted the deceased – Sandeep and started to assault. The main accused – Kumar Kamble dealt a knife blow whilst one Rohan Kurane used sickle in the assault. Another assailant – Shahrukh dealt Sword at the head and face. Whilst the applicant assaulted by one wooden instrument. Rest have beaten by fist blows and kick and therefore, the report.

5. Perusal of P. M. note indicates that they were in

all 16 injuries on the person of the deceased which are CLW as well as insized wounds. Prima facie, it is apparent that in the public view, 10-15 persons assaulted by means of a dangerous weapon and committed his murder out of political rivalry.

6. The applicant's learned counsel would submit that the applicant allegedly used a small sized wooden stick which cannot be termed as dangerous weapon. Moreover, by such instrument, grievous hurt cannot be caused. The wooden instrument was sent for medical examination from which it can be gathered that, it was a circular wooden solid stick having width of 3.5 cm. Particularly, at the end of stick, metal clip and iron pins were fitted. The Medical officer opined that the said stick can cause lacerated wound, fracture bone etc. Though, there are no specific allegations of use a sharp edged weapon, however, in furtherance of common object of the assembly, the act is committed by all. Moreover, prima facie, there is material to indicate that the applicant has actively participated in the assault by holding a stick having metal clip at its end. There is ample material

on record to show applicant's direct role. The offence is of serious nature. There are high chances of tampering, as incident was outcome of political rivalry. In view of that this is not a fit case to grant bail. Hence, Application stands rejected.

(VINAY JOSHI, J.)