

CRIMINAL BAIL APPLICATION NO. 4343 OF 2021

...Applicant

...Respondent

PSI Mr. B. D. Chavan from Sakinaka Police Station is present

FRIDAY, 1st JULY 2022

1 Heard learned counsel for the parties.

SQ Pathan

3 Learned counsel for the applicant seeks bail on the ground of parity. He submits that similarly placed co-accused - Prathamesh Shetty, Namdeo Dighe and Vinit Korade have been enlarged on bail by this Court. He further submits that the applicant's first bail application was rejected essentially on the ground that the applicant assaulted Pawan and Somu, however, the injury certificates of Pawan and Somu were not brought to the notice of this Court. Considering the submission made by the learned counsel for the applicant, learned A.P.P was directed, on the last date i.e. on 7th June 2022 to produce the injury certificates of the witnesses Pawan and Somu.

4 Today, learned A.P.P submits that the injury certificates of Pawan and Somu are not on record, as they had not sustained any serious injuries and as they were examined as out-door patients.

5 Perused the papers. The applicant's first bail application was rejected on merits vide order dated 18th September 2019. According to the prosecution, the incident took place on 7th November 2017. It is alleged by

the prosecution that the deceased-Akash was assaulted by several persons with bamboo sticks, which resulted in 49 injuries and ultimately in his death. There are eye-witnesses to the incident of assault. It is alleged that the applicant assaulted Pawan and Somu, however, the applicant along with the co-accused fled from the spot. The applicant is not alleged to have assaulted the deceased-Akash. In this connection, learned counsel for the applicant relied on the statements of Somu and Bhagyawan, to show that the said witnesses have not alleged that the applicant assaulted the deceased.

6 After the applicant's first bail application was rejected on merits vide order dated 18th September 2019, co-accused-Prathamesh Shetty was enlarged on bail vide order dated 19th March 2021. In the said incident, even the witness-Bhagyawan is stated to have received injuries, however, the injury certificates of neither Bhagyawan nor Pawan or Somu are part of the charge-sheet, nor collected during the course of Investigation. Till date, charge has not been framed in the said case.

7 Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;

- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 12:00 noon, till the conclusion of the trial;

- (iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

- (iv) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vi) The applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his release;

(vii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8 The application is disposed of in the aforesaid terms.

9 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.