

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

BAIL APPLICATION NO.613 OF 2022

Amar Vishwanath Bhandare ...Applicant

Versus

The State of Maharashtra ...Respondent

...

Mr. Ganesh Gole with Mr. Ateet Shiroadkar for the Applicant.

Mr. Shrikant Yadav, APP for Respondent-State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 14th MARCH, 2023.

P. C. :-

1. This is an application under Section 439 of the Cr.PC. filed by the aforesaid Applicant, who has been arrested in C.R.No.41 of 2021 registered with Shivaji Nagar Police Station, Kolhapur for the offences punishable under Sections 143, 147, 148, 149, 302, 323, 504 and 506 of the IPC.

2. The aforesaid crime was registered pursuant to the FIR lodged by one Kunal Kamble. It is stated that upon conclusion of the investigation charge sheet was filed and the case has been committed, which is registered as Sessions Case No.63 of 2021 pending on the file of learned Additional Sessions Judge, Ichalkaranji.

3. A perusal of the FIR reveals that on 23/01/2021 at about 2.30 p.m. there was an altercation and quarrel between Suraj Kamble and one Shahrukh. It is stated that thereafter on the same day at about 8.30 p.m. co-accused came to the Mujavarki Ground and assaulted Sandeep Magade by means of sword, knife, etc. It is stated that the co-accused had taken the weapons from the pan stall of the Applicant. Said Sandeep expired as a result of the injury sustained in the said incident.

4. Mr. Gole, learned counsel for the Applicant states that neither the FIR nor the other material on record disclose involvement of the Applicant in the aforesaid crime. He states that the Applicant is in custody since 08/03/2021 and considering the large pendency, the trial is not likely to be concluded in immediate future. He therefore submits that this is a fit case for grant of bail.

5. Per contra, Mr. Shrikant Yadav, learned APP submits that the material on record shows that the weapons of offence were kept in the pan stall of the Applicant. He further states that four other crimes are registered against the Applicant and considering his criminal

antecedents, the Applicant is not entitled for bail.

6. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

7. The FIR and the other material on record reveal that the co-accused were involved in inflicting injuries on the deceased and others. The only allegation against the Applicant is that the co-accused had taken the weapons from the pan stall of the Applicant. The FIR and other material on record does not prima facie indicate that the Applicant was present at the place of the incident or that he was involved in commission of the offence. In the absence of such prima facie material, the Applicant cannot be declined bail only on the ground of criminal antecedents. Furthermore, the Applicant is the resident of the State and there are no chances of the Applicant absconding or thwarting the course of justice.

8. Hence, the application is allowed on the following terms and conditions :

- (i) The Applicant, who is facing trial in Sessions Case No.63 of 2021 pending on the file of learned

Additional Sessions Judge, Ichalkaranji shall be released on bail on furnishing PR bonds in the sum of Rs.50,000/- with one or more sureties to the like amount.

(ii)The Applicant shall report to the Shivaji Nagar Police Station, Ichalkaranji on first day of every month till the date of framing of the charge.

(iii)The Applicant shall not interfere with the Complainant and other witnesses and shall not tamper with the evidence in any manner.

(iv)The Applicant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.

9. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)