

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3681 OF 2022

Pratik Suhas Sarnaik

... Applicant

V/s.

State of Maharashtra

... Respondent

.....
Mr. Kiran Shirguppe, Advocate for Applicant.

Mr. Y. Y. Dabke, APP for Respondent-State.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 30th AUGUST 2023

P. C:-

1. By the present Application, Applicant is seeking bail in C.R.No. 181 of 2018 registered with Karveer Police Station, Kolhapur under Sections 302, 364, 504, 506 of Indian Penal Code (for short "IPC") and under Sections 3(1) and 25 of Arms Act.

2. It is prosecution case that on 20.05.2018 at about 10:15 p.m. complainant and his friend Subham Pawar were standing near A-1 hair cutting saloon at Baba Jaragnagar and both were talking each other. At that time, Applicant and deceased had came on the spot where complainant and his friend were standing. There was old

dispute between Applicant and deceased Pratik @ Chintu Powar. At that time, quarrel took place between them. Complainant and Shubham Pawar tried to settle the quarrel. At that time, Applicant told them that he is going for urination. After some time, Applicant returned, he took out revolver and fired on the head of deceased. Thereafter complainant lodged FIR against the Applicant.

3. Learned Counsel for the Applicant submitted that, Applicant has been falsely implicated in this case as the incident happened in the crowded place of city in spite of that only four persons witnessed the said incident. Learned Counsel further submitted that Police has seized the revolver from the Applicant on 21.05.2018 whereas, he was produced before the Magistrate on 22.05.2018. Learned Counsel further submitted that, the Police Station is situated near the incident spot. The said incident is not captured in CCTV camera so it cannot be said that the said offence was committed by Applicant. The news of this crime was not published in any newspaper. Applicant is earning member of his family. He is behind the bar for more than five years, hence requested to allow the Application.

4. It is the contention of learned APP that, there is direct evidence against Applicant. Applicant had taken out revolver from his waist

and fired on the head of deceased, due to which deceased died on the spot. The medical report shows that deceased died due to bullet injury of revolver. The revolver is seized from the possession of the Applicant. Eye witnesses have stated that, they saw Applicant firing on deceased. Hence requested to reject the Application.

5. I have heard both the learned Counsel.

6. Perused the FIR and chargesheet. The incident happened at 10:30 p.m. It is witnessed by complainant and his friend Subham Pawar. Applicant had taken out revolver from his waist and fired at head of deceased. The revolver used in the offence is seized from the possession of the Applicant, whether it was seized earlier to producing him before the Court or not is a part of trial. While considering bail Application, question of presence of crowd or persons at the time of incident is immaterial. There are eye witnesses, who have stated about role of Applicant in said crime. The said incident was not captured in CCTV cannot be a ground to grant bail. While considering the bail Application, Court has to see if there is *prima facie* case against the Applicant or not. In the present case, the incident happened in the presence of complainant and other eye witnesses. The revolver used in the offence is recovered from the

Applicant, though Applicant is in long incarceration, that cannot be a ground to allow his application.

7. In view of the above, I pass the following Order :-

(i) Application is rejected.

(SHIVKUMAR DIGE, J.)