

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

BAIL APPLICATION NO.151 OF 2023

Amit Vijay Surve

..Applicant

VS.

The State of Maharashtra

..Respondent

Mr. Rushikesh S. Kale for the Applicant.

Mr. S. H. Yadav, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 23, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail by the applicant-Amit Vijay Surve in connection with C.R. No.I-255 of 2018 dated 03/12/2018 registered with Vishnu Nagar Police Station, Dombivali for the offence punishable under Sections 302, 143, 144, 147, 148, 149, 323, 341, 504, 506(2) 120-B read with 34 of the Indian Penal Code, 1860.

3. By an order dated 06/01/2023 the accused No.1 was released on bail. The relevant portion of the order reads thus :-

"3. The First Information Report ("FIR" for short) was registered by the injured complainant. The date of incident is 02/12/2018. The name of the deceased is Sachin Gurunath Patil. It is alleged that the applicant assaulted the deceased with a knife. The other accused assaulted the deceased and the complainant with fists and kick blows. There are eyewitnesses to the incident. It is the case of the complainant that the applicant was the aggressor and he started delivering knife blows on the deceased. Even eyewitnesses account for the fact that the knife blows are attributed to the applicant. There is a delay of 5 to 8 days in recording the statement of eyewitnesses, all of whom were known to the applicant and the deceased. It is an admitted position that even the applicant has suffered the knife injuries. The medical evidence on record shows that the applicant suffered sharp object wounds which has been attributed to the blows inflicted by the deceased. There is a cross FIR under section 307 filed against the deceased and the complainant. The applicant was hospitalised for almost 26 days and upon his release from the hospital was arrested on 28/12/2018.

4. The applicant is in custody for more than 4 years and even the 3charge has not been framed. The investigation is complete and charge-sheet is filed. It is not even the case that there was some previous enmity between the applicant and the deceased. There are no criminal antecedents reported against the applicant. The trial is not likely to commence any time soon. Learned counsel for the applicant, on instructions, states that till the trial concludes the applicant is willing to reside outside the Thane District. Statement accepted.

5. Considering there are cross cases, serious injuries inflicted on applicant and further considering the applicant is incarcerated for more than 4 years, the applicant can be released on bail by imposing some stringent conditions."

4. So far as the present applicant is concerned, he is accused No.2. The knife was recovered from him. The applicant was arrested on 04/12/2018 and is in custody for

more than 4 years and 1 month. Considering that the accused No.1 has been released on bail, the role attributed to the applicant is not more than that of the accused No.1. No criminal antecedents are reported against him. Therefore, the applicant is released on bail.

5. Hence, the following order :-

ORDER

(a) The applicant–Amit Vijay Surve in connection with C.R. No. 255 of 2018 dated 03/12/2018 registered with Vishnu Nagar Police Station, shall be released on bail on furnishing P.R. bond in the sum of Rs 25,000/- with one or more sureties in the like amount.

(b) The applicant shall report to the concerned Police Station twice a month i.e. on 1st and 3rd Monday of every month between 11.00 am and 1.00 pm., starting February 2023.

(c) On being released on bail, the applicant shall remove himself from the Thane district and shall stay outside Thane district till the trial is over.

(d) The applicant shall enter the Thane district only for the purpose of reporting to the Investigating Officer and to attend the Trial Court on the dates fixed by the Trial Court.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change and should not tamper the evidence.

6. The bail application is disposed of.

(M. S. KARNIK, J.)