

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

CRIMINAL BAIL APPLICATION NO.382 OF 2023

Vikramsinh Bhiku Mhamane	Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Machindra Patil, Advocate for the Applicant.

Smt. Anamika Malhotra, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 26th APRIL, 2023

P.C. :

1. This is the second bail application preferred by the same Applicant. The Applicant had earlier approached this Court by way of LD/VC/DIST/Criminal Bail Application No.128/2020. Said application was argued for some time and when I had expressed my disinclination for granting any relief, learned counsel for the Applicant had prayed for unconditional withdrawal of that application. The

application was allowed to be withdrawn unconditionally and was disposed of as such. This order was passed on 5.8.2020.

2. After that, there was no change in circumstances except that the trial has not commenced; therefore, in the interest of justice, I have heard learned counsel for the Applicant again. With the assistance of learned counsel as well as learned APP I have perused the entire charge-sheet annexed to this application.

3. Heard Shri Machindra Patil, learned counsel for the Applicant and Smt. Anamika Malhotra, learned APP for the State.

4. The prosecution case, as is reflected from the FIR, is that the Applicant was the son of the first wife of one Bhiku Mhamane. Bhiku had given his land to his second wife's sons Keshav and Anil. The deceased in this case Vishwas @ Bapu had purchased that piece of land from Keshav and Anil. The possession was retained by the

Applicant and, therefore, there was dispute between the deceased Vishwas @ Bapu and the present Applicant. The FIR mentions that both of them had decided to settle the dispute on payment of Rs.45 Lakhs but the Applicant had not paid that amount. The incident took place at around 12.00 p.m. on 26.1.2020. The first informant Tukaram Bandgar was present near a tea stall. At that time, he met one Dattatraya Mane. He was talking with him. At around 12.20 p.m., he heard a gun-shot. He looked behind. He saw that Vishwas @ Bapu was running towards Santosh Patil's shop. He was chased by the Applicant with a pistol in his hand. The first informant rushed there. The Applicant tried to fire again at Vishwas, but that time the pistol could not fire. The first informant tried to catch the Applicant. At that time, the Applicant fired at the first informant. Even on this occasion, the pistol did not fire. The first informant tried to catch him, but, one Rushikesh helped the Applicant and both of them i.e. the Applicant and Rushikesh went away on a motorcycle. The injured Vishwas @ Bapu was taken to the Lifeline

Hospital at Pandharpur, but he succumbed to his injuries.

5. Learned counsel for the Applicant submitted that the FIR shows that on a couple of occasions, the Applicant tried to fire at the deceased as well as at the first informant but he was unsuccessful; that indicates that even on the first occasion there could be a misfire and the deceased may not have suffered any bullet injury at the hands of the present Applicant. He further submitted that the Applicant is in custody since 27.1.2020 and, therefore, he may be granted bail on any condition.

6. Learned APP opposed these submissions. She relied on the postmortem notes, the recovery panchnama and the statements of seven eye witnesses to oppose this application.

7. I have considered these submissions. The postmortem notes show that there was fresh firearm entry wound in the form of punctured lacerated wound on the left side of the chest and the cause of death was mentioned as

‘shock and hemorrhage due to injury to multiple vital organs as a result of firearm injury to the chest’. There is a recovery of the pistol, live round and an empty at the instance of the present Applicant.

8. Besides these circumstances, the main circumstance is the statements of seven eye witnesses, namely, Gorakh Linge, Santosh Sarate Patil, Jigar Gaikwad, Chandrakant Deshmukh, Hanamant Gaikwad and Dattatrya Mane. All of them have given consistent statements. Their statements were recorded immediately on the next day i.e. on 27.1.2020. They have specifically stated that they had seen the incident in which the Applicant had fired at the deceased Vishwas @ Bapu. They have also narrated as to how the first informant had tried to help the deceased. All these statements are consistent and all of them have seen the Applicant firing at the deceased. There is a corresponding wound mentioned in the postmortem notes.

9. Thus, there is overwhelming evidence against the present Applicant. The murder is committed for the property.

Motive is also mentioned in the FIR.

10. Considering all these strong circumstances, I do not see any reason to take a different view from the earlier order. Therefore, considering all these aspects and the strong evidence against the Applicant, he does not deserve to be released on bail. Hence, the Application is rejected.

(SARANG V. KOTWAL, J.)

Digitally signed
by
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2023.04.28
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