



PMB

5.BA.599-23.odt

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

BAIL APPLICATION NO.599 OF 2023

1. JITU RANGE BHAI BHOYA
2. GIRISH BHAI JAI SINGH SODIYA ..APPLICANTS
VS.
UNION TERRITORY OF DADRA AND
NAGAR HAVELI AND DAMAN AND DIU ..RESPONDENT

Mr. Manoj M. Badgujar for the applicants.
Ms. Rutuja Ambekar, APP for the State.
Mr. H. S. Venegavkar for respondent No.1.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 12, 2023.

P.C. :

1. This is an application for bail in respect of the offence punishable under Sections 302, 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 07.01.2021 vide C.R. No.2 of 2021 with Nani Daman Police Station.

2. The applicants were arrested on 08.01.2021. I have heard learned counsel for the applicants on the last occasion. Heard Mr. Venegavkar, learned counsel for respondent No.1. Mr. Venegavkar opposed the application for bail pointing out that the offence is serious. My attention is invited to the materials on record. The applicants are the

accused Nos.1 and 5. So far as the main accused-Kalpesh K. Patel is concerned, who is alleged to have inflicted the vital blow has been enlarged on bail by this Court vide order dated 14.11.2022. The order reads thus :-

"1. This is an application under Section 439 of Code of Criminal Procedure, 1973 for grant of bail.

2. The applicant came to be arrested in C.R.No.2 of 2021 registered at Nani Daman Police Station for the offences punishable under Section 302 read with 34 of the Indian Penal Code.

3. It is the case of the prosecution that on 7 January 2021, the present applicant along with other co-accused assaulted the deceased and committed his murder.

4. I have heard the learned Counsel for the applicant and the learned Standing Counsel for the respondent – Union Territory of Dadra & Nagar Haveli and Daman and Diu.

5. I have perused the charge-sheet and more particularly, the statement of eye-witness namely Alkesh Asariya. The deceased was working as labourer at the construction site of one Kannubhai. It appears that the deceased was misbehaving with one co-worker Darshana and therefore he was assaulted. It appears that though the present applicant initially assaulted the deceased by fist and kick blows, however, he prevented the other co-accused from assaulting the deceased, when they started assaulting him by handle of spade. Considering these facts, I am inclined to release the applicant on bail."

3. In this view of the matter, even the present applicants who are assigned a much lesser role can be enlarged on bail. Hence, the following order :-

ORDER

- (a) Bail application is allowed.
- (b) The applicants be released on bail in C.R. No.2 of 2021 registered at Nani Daman Police Station for the offences punishable under Section 302 read with 34 of the Indian Penal Code on furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

- 4.** The application is disposed of.

(M. S. KARNIK, J.)