

VRJ

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

BAIL APPLICATION NO.627 OF 2023

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Nitin Alias Chetan Ramdas More

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Yash P. Sonavane for the applicant.

Mr. Amit A. Palkar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 9, 2023

P.C.:

1. This is an application under section 439 of the Criminal Procedure Code, 1973 seeking bail in connection with F.I.R. No.722 of 2017 dated 23rd December 2017 registered with Nigadi Police Station, Pune for offences punishable under sections 302, 307 read with section 34 of the Indian Penal Code, 1860 and section 37(1)(3) read with section 135 of the Maharashtra Police Act, 1951.

2. The prosecution case in short is as under:

On 22nd December 2017, 1) Atul Anil Gade; 2) Dinesh Nivrutti Patil; 3) Manoj Mahajan; 4) Ketan Suresh Marathe; 5) Dilip Koli; 6) Pushparaj Sanse; 7) Suyash Jagannath Khapale were staying together in one room at Jagtap Chawl, More Wasti,

Gurukrupa Colony, Chikali, Pune on rent and were serving at different places. Applicant-Nitin Alias Chetan Ramdas More and his brother Samadhan Ramdas More were staying in opposite room at Jagtap Chawl, More Wasti, Gurukrupa Colony, Chikali, Pune.

It is further alleged that Atul Gade was speaking on his cell phone with his fiancée, when Samadhan More was standing in his gallery and looking at Atul Gade. Thereupon, Atul Gade abused at Samadhan More and aggressively enquired "What are you looking for?". Samadhan More then asked Atul Gade to come down from his chawl. Samadhan More and his brother Chetan More also went down from their chawl. Accordingly, Samadhan and Chetan More came down and a scuffle broke out between first informant Atul Gade and Samadhan More and Chetan More; when informant's friend Dinesh Nivrutti Patil tried to intervene.

It is further alleged that Samadhan More ran towards his room and brought a sharp knife. Samadhan More assaulted the informant-Atul Gade with the sharp knife on his stomach as well as on waist. It is also alleged that at that time, Chetan More caught hold informant's friend Dinesh Patil and thereupon, Samadhan More also assaulted Dinesh Patil on his stomach, waist and ribs. Thus, the informant Atul Gade sustained injuries whereas his friend Dinesh Patil died on the way while being taken to the hospital.

3. Based on the report, applicant was arrested on 23rd December 2017. The investigating officer completed investigation

and filed charge-sheet on 21st March 2018.

4. The Sessions Judge by order dated 29th November 2022 has rejected the application.

5. On perusal of the charge-sheet and other material on record, role attributed to the applicant is of catching hold of the deceased. Active role of assault on the deceased by knife is attributed to the co-accused. There are six eye-witnesses. None of the eye-witness has attributed role of assault to the applicant.

6. The applicant was arrested on 23rd December 2017. He is inside jail from the said date. Though, charges are framed, the examination of witnesses has not yet started. In the charge-sheet, the prosecution has cited 25 witnesses, however, it will be for prosecution to decide number of witnesses.

7. Considering role attributed to the applicant, it is for the trial Court to adjudicate on the liability of the applicant during trial. However, considering the material on record, the applicant has made out a case for release under section 439 of the Criminal Procedure Code, 1973. Hence, following order:

a) The applicant be released on bail in relation to F.I.R. No.722 of 2017 dated 23rd December 2017 registered with Nigadi Police Station, Pune for offences punishable under sections 302, 307 read with section 34 of the Indian Penal Code, 1860 and section 37(1)(3) read with section 135 of the Maharashtra Police Act, 1951 on furnishing PR. Bond in the amount of Rs.25,000/- along with one or two sureties in the like amount;

- b) The applicant shall mark his presence before the concerned police station on first Saturday of every month between 11.00 a.m. to 2.00 p.m.;
 - c) The applicant shall remain present before the Trial Court on each and every date unless specifically exempted by the Court;
 - d) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court;
 - e) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
 - f) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case;
8. The bail application stands disposed of in above terms.

(AMIT BORKAR, J.)