

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

CRIMINAL BAIL APPLICATION NO. 867 OF 2022

Sagar Ajay Rajoria

...Applicant

vs.

The State of Maharashtra

...Respondent

Ms.Kavita Pawar – Advocate for Applicant.

Mr.S.R.Agarkar – APP for the Respondent – State.

CORAM : S. M. MODAK, J.

DATE : 6th JUNE, 2023

P. C. :-

1. Heard learned Advocate for the Applicant and learned APP for Respondent-State.
2. Charge-sheet is filed and present Applicant is named as Accused No.2. Rest of the Accused are granted bail.
3. The incident took place on 28th March, 2021 in front of Poonam Bar and Restaurant at Tulinj Road, Nalasopara (East), Taluka : Vasai, District : Palghar when the First-Informant Dilip Jethva who later on succumbed to the injuries had gone to that hotel for the purpose of bringing food parcel. At that time, one Accused by

name Pandey came there and he quarreled with the deceased. Being annoyed, the said Pandey along with his associates have assaulted the deceased with the help of knife. Initially, he was admitted in a Corporation Hospital and later on, shifted to Rajsukh Hospital – Tulinj. While undergoing treatment, he succumbed to the injuries.

4. The Applicant came to be arrested and he was denied bail by the Court of Session. Learned Advocate for the Applicant tried to contend that there are no eye witnesses and the recovery of knife cannot be believed at this stage. Because, there is no C.A. report. Whereas, learned APP pointed out that there are 7 cut injuries on all over the body of the deceased and it shows the intention. He also pointed out that the knife seized at the instance of the Applicant is having blood stains and even his cloths were stained with blood.

5. There is one offence registered against the present Applicant bearing C.R. No. 439 of 2021 under Sections 326, 427 and other Sections of the Indian Penal Code, 1860 [“IPC”] with the said Police Station.

6. With the assistance of both of them, I have gone through the papers of the charge-sheet. It is true that the First-Informant /

deceased has not named the present Applicant. It is also true that the witness Manish Virendra Maru has quoted about two incidents that took place on 28th March, 2021. In the first incident, he has not named the present Applicant but he has described the assailants by referring to the cloths. After that incident, he went ahead and stopped near Radhanagar Square. The deceased came there in auto rickshaw and narrated the incident of assault on himself. The witness went from the spot as he saw arrested Accused – Chikku Pandey came there along with five to six associates.

7. It is true that this witness has identified the present Applicant in the '*test identification period*'. There may be certain lacunae in these materials. However, I am not inclined to give benefit to the Applicant by granting him bail, simply for the reason that there are multiple injuries and the involvement of the Applicant is supported by recovery of knife at his instance having blood stains and cloths with blood stains. So, no case for bail is made out.

8. If the trial will not start within a period of two years, the Applicant is entitled to ask for bail afresh.

9. These are my prima facie observations. Let the learned trial

Court need not be influenced by them. Copy of this order be send to him for information and necessary action.

10. In view of the above, Application is disposed of.

[S. M. MODAK, J.]