

Nikita

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

BAIL APPLICATION NO.800 OF 2023

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DARADE

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Himmat Appaso Dhanavade ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Sanjeev Kadam i/b mr. Dilip Shinde, for the
Applicant.

Mr. Pandurang H. Gaikwad, APP for the
State/Respondent.

CORAM : AMIT BORKAR, J.

DATED : JULY 28, 2023

P.C.:

1. This is an application under Section 439 of Code of Criminal Procedure, 1973 in connection with C.R. No.420 of 2022, registered with Tasgaon Police Station, for alleged offence punishable under Sections 302, 504, 506, 143, 147, 148, 149 and 120(b) of the Indian Penal Code, 1860 under Section 4, 25 of Indian Arms Act, and under Section 135 of Maharashtra Police Act, 1951.

2. The prosecution case in short is as under:

Complaint is lodged by son of the deceased by name Ashish Anil Jadhav on 5/8/2022, therein alleged that on 4/8/2022 deceased Anil Jadhav was the President of one Shivneri Kala, Krida & Sanskrutik Mandal Dhavalves Tasgaon. Applicant was the

member of Shivaji Yuvak Mandal. The member of Shivneri Mandal were practicing upcoming Dahihandi celebration program prior to the week of the incident. During the practice of Dahihandi, accused Sohan Dhanavade ply his four wheeler in high speed, due to which the quarrel took place between two groups. At that time, accused Sohan Dhanavade threatened to beat complainant and his companions.

According to the complaint, on 4/8/2022, at about 03.00 p.m., some of the friends of complainant were standing in front of Tea stall situated at kokane corner. Applicant and two other accused by name Sohan Dhanavade and Sagar Kadam were also present there. Accused Sohan Dhanavade told Sagar Kadam that deceased is forming group of boys to establish power game. Accused Sagar Kadam uttered abuses in the name of deceased, which were told by Onkar Sawant to the complainant and his deceased father. Therefore, the complainant, his father and Onkar Sawant went to the house of Sagar Kadam to know reason of abuses. Sagar Kadam was not found at home, therefore, they returned to their respective homes.

It is further alleged by the prosecution that, complainant Ashish along with Onkar Sawant, Akash Patil, Hrishikesh Dhanavade, Avdoot Ghadage, Rahul @ Ranjit Sawant were chitchatting in Shivneri chowk, near house of Baban Dhanvade. At that time, Anil Jadhav, father of the complainant came in the said chowk and asked Ashish to come with him to go to house. At that time applicant and co-accused were seen by him with deadly weapons with knife, sword, sticks and iron rod. Suddenly, they

started assaulting complainant's father with deadly weapon, specifically as stated in the FIR that Kamlesh Tambekar, Sagar Kadam, Sohan Dhanavade, Pawan Dhanavade having knife, sword, stick in their hands and sword in the hands of Suhas Aadsul and iron rod in the hand of Shital Patil. Kamlesh Tambekar threatening to kill, by stabbing knife on back of deceased. When deceased was catching Kamlesh, Shital Patil assaulted with iron rod on right hand of deceased. So also Sagar Kadam, Pawan Dhanawade and Sohan Dhanawade started assaulting deceased on his back, stomach and head with knife and sword-stick. When complainant went to near his father, Suhas Aadsul threatened to kill him by sword. Then all people gathered and after seeing them they ran away. Consequently, F.I.R. was registered.

3. After investigation statement of eye witness was recorded and after completion of investigation filed a charge-sheet. The applicant was arrested on 12th August 2022.

4. Learned APP submitted that eye witnesses statement supports the prosecution case. The active role is attributed to the applicant. CCTV transcript indicates common object of killing the deceased. Therefore, according to him, further detention of the applicant is necessary.

5. Perused the charge-sheet and material on record, FIR is lodged by son of the deceased, who is eye witness. In the report name of the applicant is not mentioned. Supplementary statement of the informant recorded on the next date and attributes role of assaulting deceased by fists and blows. The postmortem report

indicates that the cause of death is injury on the chest. As per the eye-witness statement, co-accused Sagar Kadam is attributed role of assault on chest. According to other eye witnesses, applicant along with the other co-accused was carrying knife. It is submitted that after the incident, the applicant shouted that “work is done” and called upon other accused to leave the spot of incident.

6. Considering aforesaid factors, the applicant has made out a prima facie case for release on bail. Ultimately, prosecution needs to prove common object during trial.

7. The applicant is in jail from 12th August 2022. It is unlikely in near future that the trial will be over. The applicant has no criminal antecedents to his discredit. Hence following order:

a) The applicant Himmat Appaso Dhanavade, be released on bail in connection with C.R. No.420 of 2022, registered with Tasgaon Police Station, for alleged offence punishable under Sections 302, 504, 506, 143, 147, 148, 149 and 120(b) of the Indian Penal Code, 1860 under Section 4, 25 of Indian Arms Act, and under Section 135 of 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 with the concerned police station on first Saturday of every month till conclusion of trial;

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, 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. No costs.

(AMIT BORKAR, J.)