

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

CRIMINAL BAIL APPLICATION NO. 1458 OF 2022

Jitendra Singh Subhash Singh Juni ...Applicant
Versus
State Of Maharashtra ...Respondent

Mr. Salman K. Pathan a/w Altab Khan i/b Mr. Shubham Gangam for
the Applicant.

Mr. Y. Y. Dabke, APP, for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 13th SEPTEMBER 2023.

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P.C. :

1. By this application, applicant is seeking bail in C.R. No.748 of 2020 registered with Virar Police Station, Dist. - Thane for offences punishable under Sections 302, 307, 143, 147, 148, 149 of the Indian Penal Code, 1860 (for short "IPC) and for the offences punishable under Section 4(25) of the Arms Act, 1959 along with Sections 135, 37(1) of the Maharashtra Police Act, 1951.

2. It is prosecution's case that, on 25th August, 2020

complainant his deceased brother Pilllaysing, and son Rahul were assaulted by co-accused Chandan, Kundan, Mandan by sword and wooden bamboo. On the complaint of Takkusingh FIR was lodged against the co-accused Chandan, Kundan, Mandan. In the said assault, Pillaysingh was seriously injured and he died while taking treatment. The supplementary statement of complainant was recorded on 29th August, 2020. In the said supplementary statement, complainant mentioned the name of applicant and other co-accused. In the said supplementary statement, he has stated that, applicant and other co-accused assaulted Pillaysingh, and his son Rahul and Sitara with sword, iron pipe, knife and wooden bamboo. On that basis, the name of the applicant was added in the present crime.

3. It is contention of learned counsel for the applicant that, applicant has been falsely implicated in this case. Initially the name of applicant was not mentioned in the FIR and supplementary statement was recorded after five days of the incident. In supplementary statement it is mentioned that, applicant along with other co-accused had assaulted complainant, his deceased brother and two sons. No specific role is attributed to the applicant. Only it

is mentioned that, all the accused had assaulted them with iron pipe, knife and wooden bamboo. Learned counsel further submitted that, there is no recovery at the instance of the applicant. Applicant is behind bar for more than 2 ½ years. Hence, requested to allow the application.

4. It is contention of learned APP that, complainant has given specific name of the applicant and other co-accused stating that they had assaulted complainant, his brother and two sons. In the said assault. Complainant's brother is died and applicant was one of the member of the group, who assaulted complainant and his brother. It shows *prima facie* case against the applicant. If applicant is released on bail, he may threaten the prosecution witnesses. Hence, requested to reject the application.

5. I have heard both learned counsel. Perused FIR and charge sheet.

6. Admittedly, name of the applicant was not mentioned in the FIR. After five days of complaint, in supplementary statement

name of applicant was added in the present crime. No specific role is attributed to the applicant in supplementary statement. In supplementary statement it is only mentioned that, applicant along with other co-accused assaulted the complainant and his brother. There is no recovery at the instance of applicant. At the time of lodging of complaint, the complainant knew the applicant but, he did not mention the name of the applicant in the complaint. Applicant is behind bar for more than 2 ½ years. Investigation is completed and charge sheet has been filed.

7. Considering the above facts, further detention of applicant is not required.

8. In view of above, I pass following order.

ORDER

- (i) Applicant be released on bail in Crime No. 748 of 2020 registered with Virar Police Station, Dist-Thane, on executing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- (ii) Applicant shall attend the concerned police station

once in a month i.e. on first Saturday between 11:00 a.m. to 2:00 p.m. till framing of charge.

(iii) Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

9. The application is allowed in the aforesaid terms.

10. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)