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

**BAIL APPLICATION NO.1202 OF 2023**

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Amol Arjun Giri

... Applicant

**V/s.**

The State of Maharashtra

... Respondent

Mr. Nitin B. Kamble for the applicant.

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

**CORAM : AMIT BORKAR, J.**

**DATED : JULY 10, 2023**

**PC.:**

**1.** This is an application under Section 439 of the Criminal Procedure Code, 1973, seeking bail in connection with C.R. No.267 of 2016 registered with Khadak Police Station, Pune, for offences punishable under Sections 302, 120-B, 143, 147, 148, 149 of the Indian Penal Code, 1860 and Section 3(25) of the Arms Act & Sections 37(1)(3) read with Section 135 of the Bombay Police Act, 1951.

**2.** According to the prosecution, informant Sangram Khamkar is the cousin of Arjun Devkar (deceased). On 22 September 2016, the deceased came to the informant's house in the evening at about 8.30 p.m. They thereafter proceeded towards Shahu Square for tea. Sunil Khopade, their friend, joined there. They noticed Amol Ombase standing in front of the Popular Height building on

the way. While speaking with Anil Ombase, seven-eight persons suddenly rushed towards them from Shahu Square. They were exerting each other to eliminate the deceased. The informant named the applicant Sonya Dhawade, Ritesh Pawar, and Dinya Dhawade.

**3.** According to the informant, Sangram Khamkar, Sonya Dhawade and Ritesh Pawar were armed with pistols. Sonya and Ritesh started firing at the deceased. According to the prosecution, Sonya Dhawade assaulted the deceased on the head with the reverse side of the pistol resulting in head injuries.

**4.** The injury certificate indicates 20 injuries—15 injuries on the head and five injuries by a bullet. On 26 October 2016, the deceased, Arjun, was discharged from the hospital. On 2 December 2016, Arjun's statement was recorded. Along with others, the deceased stated that the present applicant was carrying a sickle and the applicant was assaulted by the sickle on his head. On 5 December 2016 Arjun Devkar died. The applicant was arrested on 14 June 2017.

**5.** On perusal of the charge-sheet, prima facie following circumstances emerge: (i) no specific role is attributed to applicant in the statement of eye-witnesses recorded on 23 September 2016 except presence during incident; (ii) eye-witnesses attribute role of assault by sickle to the applicant in his statement dated 20 October 2016, almost one month after incident; (iii) statement of deceased dated 2 December 2016(almost two and half months after incident) for the first time attributes assault by sickle to the

applicant; (iv) supplementary statement of another eye-witness attributes role to the applicant in his statement dated 25 August 2017(almost eleven months after incident); (v) there is no recovery of sickle from the applicant; (vi) statement of Sangram Khamkar dated 20 October 2016 attributes assault on deceased Arjun on his head by reverse side of pistol repeatedly; (vii) the injury certificate and postmortem report does not indicate incised wound to deceased; and (viii) Co-accused no. 4, 6, 7 and 8 have been released on bail.

**6.** Considering the cumulative effect of the aforesaid circumstances, taking a prima facie view of the matter, the question as to whether assault by the applicant by using a sickle caused the death of the deceased after two and half months shall be decided by the Trial Court during the trial. However, the absence of a specific role to the applicant in the statement of eye-witnesses recorded immediately after the incident, in the report, and the applicant has been in custody for more than six years, necessitates a grant of relief in favour of the applicant.

**7.** For the foregoing reasons, I pass the following order:

- a) The bail application is allowed;
- b) The applicant shall be released on bail in connection with C.R. No.267 of 2016 registered with Khadak Police Station, Pune, for offences punishable under Sections 302, 120-B, 143, 147, 148, 149 of the Indian Penal Code, 1860 and Section 3(25) of the Arms Act & Sections 37(1)(3) read with Section 135 of the Bombay Police Act, 1951 on furnishing P.R. Bond in the amount of

Rs.25,000/- with one or two sureties in the like amount;

- c) The applicant shall remain present before the concerned police station on the first Saturday of every month between 11.00 a.m. to 2.00 p.m. till the conclusion of the trial;
- d) The applicant shall remain present before the Trial Court on every date unless exempted by the Court;
- e) The applicant shall not directly or indirectly make any inducement, threat or promise to any witnesses acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or any police officer;
- 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 accordingly. No costs.

**(AMIT BORKAR, J.)**