

D.A.Ethape

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

CRIMINAL BAIL APPLICATION NO. 1846 OF 2022

Sagar Gulab Chavan	...Applicant
Versus	
State Of Maharashtra	...Respondent

Mr. Satyavrat Joshi i/by Mr. Nitesh Mohite Advocate for Applicant.
Mr. Y. Y. Dabke, APP for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 4th SEPTEMBER, 2023

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P.C.:

1. By this application, the applicant is seeking bail in Crime No.182 of 2021 registered with Jath Police Station, Sangli for offences punishable under Sections 302, 307, 326, 324, 323, 427 read with 34 of the Indian Penal Code, 1860. The applicant is arrested on 10th May 2021, since then he is in custody.
2. It is prosecution's case that, the complainant namely Shital Balu Thombare was warned by the applicant and other co-accused that he should not use their agricultural land for plying his tractor. On 21st April 2021 at about 08:15 pm., the complainant, his father, uncle and cousin were proceeding through the land of applicant to bring the clay known as 'Karal' along with deceased and injured. It is alleged that, the

applicant and other co-accused intercepted his tractor to prevent its intrusion through their land. It is alleged that, at that time, the present applicant was holding knife in his hand and other co-accused namely Gorakh Rathod and Navnath Rathod were holding sticks in their hands. The applicant initiated the assault on the father of the complainant and his uncle by means of knife while other co-accused caused damage to his tractor. It is alleged that the applicant assaulted deceased on his abdomen. Due to said assault, intestine of the deceased came out and thereafter he assaulted with knife on the head of Tanaji Thombare. Then other co-accused assaulted with sticks as deceased was seriously injured. He was taken to Hitti Hospital Madgyal and subsequently to Rural Hospital, Madgyal. Thereafter, he was shifted to Civil Hospital Sangli. Complaint was lodged on 22nd April 2021 against applicant and co-accused. On 29th April 2021, while taking treatment injured Bharat Thombare died, thereafter Section 302 of IPC was added.

3. It is contention of learned Counsel for the applicant that though, there are allegations against the applicant that he assaulted the deceased and other eye witnesses with knife but the medical report and injury certificate produced with charge-sheet shows that the nature of injury of injured eye witnesses is simple in nature. Learned counsel further submitted that, the incident happened on 21st April 2021, whereas the complaint was lodged on 22nd April 2021. The deceased

was admitted in the hospital for eight days and he had recovered from the injuries, thereafter he died, so it cannot be said that he died due to injuries sustained by him. It is alleged that due to assault intestine of the deceased came out from his stomach but medical report document produced on record does not support it. Due to quarrel, the incident was happened suddenly. There was no intention to kill the deceased. The applicant is behind bar for more than two years. He is 21 years old. Hence, requested to allow the application.

4. It is contention of learned APP that there is direct evidence against the applicant. He assaulted the deceased with knife. Prior to entry of complainant and other injured witnesses in field. The applicant was holding knife, it shows the act of applicant was pre-mediated. He assaulted the deceased on vital part's of his body i.e. abdomen and other part's of the body. His blow was so forceful that intestine of deceased came out of stomach. It shows, his intention was to kill the deceased. He not only assaulted the deceased but assaulted the other person's with knife. When he was holding knife, he had knowledge that if he assaulted with knife there would be serious injuries of other person. It shows that the incident of assault on deceased was made with pre-planning and with intention to kill. Due to serious injuries deceased was admitted in the hospital and while taking treatment he died. He died due to injury sustained by him. There are statements of eye witnesses, who were

present at the time of incident, who says about role of applicant. The knife, who was used in the offence was recovered at the instance of the applicant it shows his involvement in the said crime. Hence, requested to reject the application.

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

6. In the complaint, the complainant, who is eye witness of the incident has specifically stated that the applicant had assaulted the deceased with knife on his abdomen and other part's of the body. The applicant had also assaulted other persons, who got injured due to said assault. The applicant had given powerful blow on the stomach of deceased, due to which intestine of deceased came out. The eye witnesses, who were present at the time of incident have stated the same facts in their statements as mentioned in complaint. Due to assault of applicant, deceased was seriously injured and he was admitted in the hospital. While taking treatment, he succumbed to said injuries. The knife used in crime is recovered at the instance of applicant having blood stains on it. Applicant was holding knife in his hand when complainant and others entered in that filed it shows said assault was pre-planned. Applicant was aware that knife is deadly weapon and he assaulted on deceased's vital part of body, he also assaulted other person's. There is *prima facie* case against the applicant.

7. In view of above, I pass the following order:

ORDER

(i) Criminal Bail Application No. 1846 of 2022 is rejected.

[SHIVKUMAR DIGE, J.]