

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

BAIL APPLICATION NO. 3204 OF 2021

Kumar Maruti Kamble

... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. Niteen Pradhan a/w. Ms. Shubhada Khot for the Applicant.

Mr. Shrikant Yadav, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 21st MARCH, 2023.

P. C. :-

1. This is an Application under section 439 of Cr.PC. filed by the aforesaid Applicant who is arrested in C.R.No.41/2021 registered with Shivajinagar Police Station, Kolhapur for offences punishable under sections 143, 147, 148, 302, 323, 504, 506 r/w. 149 of the Indian Penal Code and sections 25(4) of Arms Act, 1959.

2. Heard learned counsel for the Applicant and learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by one Kunal Kamble. A perusal of the FIR reveals that on 23/01/2021, at

about 02:30 p.m., there was an altercation and quarrel between Suraj Kamble and one Sharukh. It is stated that thereafter on the same day, at about 08:30 p.m., the Applicant along with the co-accused came to the Mujavarki Ground and assaulted Sandeep by means of a sword, knife, etc. Said Sandeep expired as a result of the injuries sustained in the said accident.

4. The FIR as well as the statements of the other eye witnesses prima facie reveal that the Applicant herein was armed with a knife and he had tried to inflict an injury on the deceased-Sandeep which he tried to prevent by raising his hand and as a result Sandeep sustained injury on his hand. It is stated that the co-accused-Amar who had accompanied the Applicant came with a sword and that Rohan Kurne who was armed with a sickle inflicted a blow of sickle on the head of Sandeep. The records also indicate that the co-accused Shahrukh and Motha Shahrukh also inflicted blows of sword on the head of Sandeep whereas co-accused Mohsin Sandi assaulted Sandeep with stones and the Applicant continued assaulting Sandeep by kicks and blows. The motive is stated to be the political rivalry between the Applicant and the deceased over panchayat elections.

5. Sandeep died on the spot and the post mortem report reveals that he had sustained as many as 16 injuries. The death was due to head injury. Mr. Pradhan, learned counsel for the Applicant states that the Applicant herein was not present at the place of the incident. He has relied upon the affidavit of his wife to contend that on the relevant date, the Applicant was at the police station. He further submits that he has already requested the Investigating Officer to verify the said fact through CCTV footage.

6. The affidavit filed by the wife of the Applicant cannot be considered at this stage. The statement of the eye witnesses cannot be discarded on the basis of the affidavit filed by the wife of the Applicant. The material on record further reveals that the Applicant had come along with the other co-accused armed with weapons and that he had taken the deceased aside under the pretext that he was trying to settle the matter and inflicted a blow of knife which the deceased prevented by his hand. All the other co-accused inflicted injuries by means of deadly weapons. The material on record, thus, prima facie reveals the involvement of the Applicant in commission of the crime which is of serious nature. The evidence has not yet commenced. Considering the previous enmity between the parties, the possibility of the Applicant

interfering with the eye witnesses cannot be ruled out. Under the circumstances, no case is made out for grant of bail. Hence, the Application is rejected.

PREETI
H JAYANI

Digitally signed
by PREETI H
JAYANI
Date: 2023.03.31
14:47:07 +0530

(SMT. ANUJA PRABHUDESSAI, J.)