

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2259 OF 2022

VAISHALI
ANIL
TIKAM

Suresh Lalbahadur Singh

.... Applicant

Versus

The State of Maharashtra

.... Respondent

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Mr. Rizwan Merchant a/w. Sagar Shete a/w. Sultan Khan, Advocate for the Applicant.

Ms. Anamika Malhotra, APP for Respondent-State.

P.I. Rajesh Shinde, Tilak Nagar Police Station.

CORAM : SHIVKUMAR DIGE, J.

DATE : 17th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No.830 of 2021 registered with Vakola Police Station for offence punishable under Sections 302 of Indian Penal Code, 1860.

2. It is prosecution's case that on 8th October, 2021 complainant Smt. Lalita Makwana lodged a complaint at Vakola Police Station, stating that her mother Yashoda Singh stays with her unmarried younger brother Ramesh at Room No.03, Ground Floor, Ramkhilavan Chawl, Santacruz (E), Mumbai. The Applicant stays with his daughter Divya Singh on the first floor of the same house. Applicant's son Divyank Singh stays with his wife in same locality. It is alleged that Applicant and Ramesh were habitual drinkers and

they used to fight regularly over the ownership of the entire house. On 8th October, at around 2.55 a.m., the complainant received a call from Divyank's wife and she informed her that Ramesh is no more. Thereafter, the Complainant immediately went to her brother's house at Vakola. After reaching there, she came to know that Applicant and deceased had fight over ownership of the house, hence, applicant stabbed deceased with knife, due to said assault he died.

3. It is the contention of learned counsel for applicant that the applicant has been falsely implicated in this case. The prosecution case is based on circumstantial evidence. No one saw the alleged incident that, the applicant assaulted the deceased with knife. Learned counsel further submitted that the alleged recovery of knife panchnama shows that same has been prepared with the motive to suit the purpose of investigating agency. It is alleged that the witnesses had seen the applicant after the incident, that applicant was going out of the lane with knife in his hand. But the knife is recovered from the house of the applicant. When the applicant had gone out of the lane with knife then, how again the same knife was recovered from the house of the applicant. Learned counsel further submitted that the injuries sustained by the deceased does not match

with the knife recovered at the instance of the Applicant. Moreover, FSL report shows the blood stains found on the knife recovered at the instance of the applicant are inconclusive. The blood stains found on the cloths of the applicant are inconclusive, it does not show the involvement of the applicant in the said crime. Applicant is behind bar for more than two years. Yet trial has not been started. Hence, requested to allow the application.

4. It is the contention of learned APP that the complainant is the sister of the applicant, who has stated that there was dispute between the applicant and the deceased over the ownership of house. There are statements of son and daughter of applicant who state's that after hearing the sound when they went at the incident spot, they saw applicant was going out with knife in his hand. The same statements are given by independent witnesses Vinod Katharia, Chentan Bavaji. There is prima facie case against the applicant. Hence, requested to reject the application.

5. I have heard both learned counsel, perused the FIR and charge-sheet.

The complainant is the applicant's sister. She has stated that there was dispute between the applicant and deceased over

ownership of the house. The witness Divyank Singh, who is son of the Applicant has stated that at intervening-night of 7th October, 2021 and 8th October, 2021, around 1.30 a.m. he heard sound. Hence, he rushed to the spot, from where sound came, at that time, his friend Vinod Katharia, Mandar Ambelkar and Chetan Bawaji had come there. When he reached the incident spot, he saw his uncle Ramesh Singh was lying on ground in unconscious condition and his father i.e. applicant was walking out of that lane with knife. He noticed that bunion of his uncle was soaked in blood. He admitted his uncle Ramesh in hospital. He had stab injuries. In hospital, doctor declared him dead. The same statements are given by the witnesses i.e. Vinod Katharia, Mandar Ambelkar, Chetan Bavaji. The alleged knife used in the crime is recovered at the instance of the applicant. It is contention of learned counsel for the applicant that blood stains found on knife are inconclusive as well as nature of injuries found on the dead-body of the deceased are not matching with the shape of knife blade recovered at the instance of applicant. In my view, for considering these facts, evidence is required and experts can say about it. It appears from record that deceased was lying on ground in injured condition at that time the eye witnesses have seen that the

applicant was going with knife. There was disputes between the applicant and deceased over the ownership of house, the knife used in crime is recovered at the instance of applicant, the material produced on record shows strong prima facie case against the applicant.

. In view of above, I pass following order :

ORDER

- (i) Application is rejected.

(SHIVKUMAR DIGE, J.)