

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

CRIMINAL BAIL APPLICATION NO. 2306 OF 2022

Rehman @ Jafar Rajmohammad Shaikh

...Applicant

Versus

The State Of Maharashtra

...Respondent

....

Dr. Uday P. Warunjikar a/w Sonali R. Chavan, Advocate for the Applicant.

Mr. M.G. Patil, APP for the Respondent – State.

Mr. Sharad Mali, API, Vishrantwadi Police Station, Pune City.

CORAM : PRAKASH D. NAIK, J.
DATE : 27th March, 2023.

PER COURT:

1. The Applicant is arrested on 7th October 2018 in connection with CR No. 307 of 2018 registered with Vishrantwadi Police Station, Pune for offence punishable under Section 302 AND 201 r/w Section 34 of IPC.

2. This is the second application for bail before this Court. The previous application was rejected by this Court vide Order dated 16th January 2020.

3. First Information Report (“FIR”, for short) was lodged on 7th October, 2018 by Vishnu Tayyappa Pawar. It

is alleged that on 7th October 2018 at about 7.30 am the first informant and his brother Sanjay were called by police at Shelar Ghat. They were shown dead body of Anil Dhotre. The face of deceased was disfigured. He was murdered by using weapon. The deceased was husband of informant's sister. Statement of Sanjay Pawar was recorded on 8/10/2018. He stated that in the year 2008, Jofar Shaikh was roaming with sword in his hand and information about it was provided to police by Vishnu (first informant). Hence Jafar had grudge against Vishnu. On 10th January 2008, Jofar Shaikh, Shabbir Shaikh, Riyaz Shaikh and Rohan Manjarekar had attempted to kill him by using sickle and bat. Hence complaint was lodged with police. They were arrested. After release on bail, they were threatening him and his brother to withdraw case. Anil Dhotre (deceased) had helped him and his brother. Anil was also threatened by them. Complaints were filed with police. Shabbir Shaikh and Riyaz Shaikh had attacked Vishnu in June 2009. Complaint was lodged with police. Supplementary statement of Vishnu Pawar (first informant) was recorded on 08/10/2018. He has reiterated the version of Sanjay Pawar. In addition it is stated that,

the aforesaid persons were taking Anil Dhotre for liquor parties. Anil Dhotre had informed him that Jafar and his friends were insisting that case lodged by him should be withdrawn. In 2009, Sanjay Pawar was assaulted by Jafar and his associates and case was registered against them. But the parties had compromised case. Statement of Rajashree Lashkare was recorded on 8/10/2018. She is the sister of deceased Anil Dhotre. She stated that Anil Dhotre had informed him that he had quarrel with Jafar and Rahul. Statements of witnesses who had allegedly seen accused and victim together were recorded. On completing investigation charge sheet is filed.

4. Learned Advocate for the Applicant Dr. Warunjikar submitted that the Applicant is in custody from 7th October 2018 and there is no progress in the trial. The case of the prosecution is based on circumstantial evidence. Charges are framed. The prosecution has examined only one witness. Co-accused Shafik Jayprakash Pandey has been directed to be released on bail by the Court of learned Additional Session Judge, Pune vide Order Dated 22nd January 2019. The prosecution has provided a list of 33

witnesses. It is not clear as to when the trial would be concluded. The Applicant cannot be incarcerated in custody for indefinite period. While rejecting the previous application for bail, it was observed that there was recovery of bloodstained scythe from the Applicant. However, the report indicates that the blood found on the weapon does not match the blood group of the deceased.

5. Learned APP submitted that the prosecution is relying upon 33 witnesses to prove the charge against the accused. The previous application for bail preferred by the Applicant is rejected by the Court. There is evidence to show the involvements of Applicant in the crime. The prosecution has examined one witness. In the past, the Applicant was involved in one case registered with Vishrantwadi Police Station vide CR No. 11 of 2008 offence punishable under Section 307, 326, 394, 201, R/W 34 of IPC.

6. There is no eye witness to the incident. The case is based on circumstantial evidence. The Applicant is in custody from 17th October, 2018. The prosecution has so far examined one witness. Report was called from trial Court about status of trial. Vide Report Dated 6th March, 2023, it

is stated that charge is framed against the accused persons on 17th December 2021 and the case is now posted for recording of evidence on 28th March 2023. Summons is issued to the witnesses.

7. The prosecution proposes to examine about 33 witness. It is not clear as to when the trial would be concluded. The past case arising out of CR No. 11/2008 has resulted in acquittal. Copy of Judgment dated 19/11/2014 has been annexed to the application. The previous application for bail was rejected about three years ago. The case is based on circumstantial evidence. The FIR was registered against unknown persons. The witnesses who are related to deceased had referred to motive by referring to incidents of 2008 and 2009. The present incident had occurred on 6/10/2018. Considering the nature of evidence and the fact that the Applicant is in custody for substantial period of time case for grant of bail is made out.

ORDER

- i. Bail Application No. 2306 of 2022 is allowed.
- ii. The applicant is directed to be released on bail in connection with CR No. 307 of 2018 registered

with Vishrantwadi Police Station on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

- iii. The Applicant is permitted to furnish cash bail in the sum of Rs. 25,000/- for a period of six weeks.
- iv. The applicant shall report Vishrantwadi Police Station once in Three months on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- v. The Applicant shall regularly attend the trial Court on the date of hearing of the case unless exempted by the Court.
- vi. The applicant shall not tamper with the evidence.
- vii. Application is stands disposed of.

(PRAKASH D. NAIK, J.)