

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.2432 OF 2022

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Paras Jalindar Bansode

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Kiran Bhangе a/w. Mr. A.M. Reddy, for the Applicant.

Ms. P.N. Dhabolkar, APP for the State.

CORAM : N. J. JAMADAR, J.

DATE : FEBRUARY 16, 2023

P.C.:

1. The applicant who is arraigned in C.R.No. 74 of 2022 registered with Shahupuri police station, Satara for the offences punishable under sections 302, 307, 326 and 323 read with 34 of Indian penal Code, 1860, along with co-accused, has preferred this application to enlarge him on bail.

2. Initially the applicant had preferred Bail Application No. 1477 of 2022. The said application came to be disposed as withdrawn.

3. The applicant avers that there is a significant change in the circumstances. In the intervening period, co-accused Jay Gaikwad has been released by the learned Additional Sessions Judge, Satara by an order dated 4th November, 2022.

4. Heard Mr. Kiran Bhange, learned counsel for the applicant and Ms. Dhabolkar, learned APP for the State.

5. Perused the report under section 173 of the Code of Criminal Procedure, 1973 (the Code) and the documents annexed with it.

6. Aniket Salunkhe lodged a report on 3rd March, 2022 that he had accompanied Pratik Badekar (the deceased) to a spot near Futka Lake where accused No. 1 Viraj Salunkhe had called the deceased for a meeting. An altercation ensued between accused No. 1 Viraj and the deceased. As accused No. 1 Viraj started to assault the deceased, he and his friend Mangesh Badekar intervened. Accused No. 1 Viraj whipped out a knife and stabbed the deceased in the stomach. When he tried to rescue the deceased, the accused No. 1 Viraj assaulted him by means of knife on the stomach and back. Co-accused Jay Gaikwad, who accompanied accused No. 1 Viraj, caught hold of Mangesh. Accused No. 1 Viraj also assaulted Mangesh. Deceased and injured sustained bleeding injuries, and were hospitalized.

7. The statement of the deceased came to be recorded on 13th March, 2022 at Satara Diagnostic center. After narrating the cause

of the dispute between the deceased and accused No. 1 Viraj, the deceased informed that when accused No. 1 Viraj assaulted him by means of knife, the co-accused Jay Gaikwad, Pratik Badekar and Paras Bansode, the applicant herein, rushed to the scene of occurrence. The applicant was armed with a scythe. Accused No. 1 Viraj assaulted Mangesh and his friend Aniket by means of knife. The co-accused Pratik Badekar, Jay Gaikwad and the applicant exhorted accused No. 1 to leave Mangesh and Aniket and kill the deceased. Thereupon, all of them again assaulted him.

8. Eventually, the deceased succumbed to the injuries on 5th April, 2022. The autopsy surgeon opined that septicemic shock following stab injury was the cause of death.

9. In the backdrop of the aforesaid material, the learned counsel for the applicant submitted that in the first information report not only the applicant was not named but it was categorically asserted that only co-accused Jay Gaikwad accompanied accused No. 1 Viraj, the principal assailant. He further submitted that there is no corroboration to the statement of the deceased that at the time of occurrence the applicant was armed with scythe. Nothing incriminating has been recovered at the instance of the applicant.

Since investigation is complete for all intent and purpose, the applicant deserves to be enlarged on bail.

10. Ms. Dhabholkar, learned APP, on the other hand, submitted that since the first application was withdrawn by the applicant and there is no change in the circumstances, the application does not deserve to be entertained.

11. Indisputably, by an order dated 4th November, 2022 passed in Bail Application No. 723 of 2022 the learned Sessions Judge was persuaded to release the co-accused Jay Gaikwad, on bail. It is imperative to note that co-accused Jay Gaikwad was specifically named in the first information report. In fact, the role of having caught hold of Mangesh Badekar, another injured, whilst accused No. 1 Viraj unleashed the blows by means of knife was attributed to Jay Gaikwad.

12. In the first information report, the first informant did not advert to the presence of two more assailants. Even in the statement of the deceased dated 13th March, 2022 the role attributed to the accused was that of charging upon the deceased armed with scythe. The allegation, as is evident stops at that.

Neither the deceased nor the injured witnesses including Mangesh Badekar, have alleged that the applicant assaulted either the deceased or any of the injured by means of the scythe.

13. In any event, the role attributed to Jay Gaikwad is more specific and grave. In contrast, the allegations against the applicant appear to be of general nature.

14. Since the co-accused Jay Gaikwad is released on bail, in my view, the applicant has succeeded in making out a case for exercise of discretion in his favour. The apprehension on the part of prosecution can be taken care of by imposing appropriate conditions.

Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicant Paras Jalindar Bansode be released on bail in C.R. No. 74 of 2022 registered with Shahupuri police station, Satara for the offence punishable under sections 302, 307, 326 and 323 read with 34 of Indian penal Code, 1860 on furnishing a P.R. Bond in the sum of Rs. 25,000/- and one or two sureties in the like amount, to

the satisfaction of the learned Additional Session Judge, Satara.

3] The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

4] The applicant shall regularly attend the proceedings before the jurisdictional Court.

(N. J. JAMADAR, J.)