

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2747 of 2022

Rohit Ganesh Jagdale

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Mahesh M. Funde, Advocate for the Applicant.

Mr. Amit A. Palkar, APP for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 11th OCTOBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in Crime No. 172 of 2021 registered with Shivaji Nagar Police Station, Ambernath, District, Thane, for offences punishable under Sections 302, 201, 349, 143, 147, 148, 149, 506 and 323 of Indian Penal Code, 1860 and Sections 37(1) and 135 of Maharashtra Police Act.

2. It is prosecution's case that on 6th July 2021 at 11.00 pm, deceased Bhavik Shinde called the complainant and asked him to come near his house. The deceased and the complainant met at Hanuman Temple situated near the house of deceased. After some time, the deceased and complainant decided to go to smoke cigarette

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near Ambernath Shivmandir. When they were going towards the

said place, they encountered accused Nos.1 to 5 who were under the influence of alcohol. Accused No.1- Satish Kamble held deceased Bhavik Shinde by his neck and said “you had beaten me few days back, now show your strength”. However, deceased tried to reason with him. Accused No.1 called co-accused including applicant and told them not to spare the deceased alive. Accused No.1 removed a chopper and hit deceased on his hand and chest. The deceased tried to escape and shouted “Vachva Vachva” and ran towards the direction of Shivmandir, accused Nos.1, 2 and 3 caught him and accused No.1 hit the deceased with chopper on his hands and neck. Meanwhile, the complainant tried to stop accused Nos.1, 2 and 3, however, applicant and accused No.4 prevented the complainant from doing so and started hitting the complainant. Deceased died while taking treatment.

3. It is the contention of learned counsel for applicant that the role attributed to applicant that when the incident was going on, he caught hold the complainant. He had not assaulted the deceased. Applicant is behind bar for more than two years. Investigation is completed, charge-sheet has been filed. Hence, requested to allow the application.

4. It is the contention of learned APP that applicant was a part of group who assaulted the deceased and complainant. Applicant had caught hold the complainant and prevented him from going to deceased to rescue him. There is prima facie case against applicant. Hence, requested to reject the application.

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

Allegations against applicant are that he had caught hold the complainant when he was going to rescue the deceased. No incriminating material is produced on record to show that applicant had assaulted deceased. The main allegations are against accused Nos.1,2 and 3. Applicant is behind bar for more than two years. Investigation is completed and charge-sheet has been filed.

6. Considering the above facts, applicant's further detention is not required, hence I pass following order :

ORDER

- (i) Applicant be enlarged on bail in Crime No. 172 of 2021 registered with Shivaji Nagar Police Station, Ambernath, District, Thane, on executing P.R.Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
- (iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

7. The application is allowed in the aforesaid terms and is accordingly disposed off.

8. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)