

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

CRIMINAL BAIL APPLICATION NO. 4230 OF 2021

Akshay Tukaram Kalbhor ...Applicant

V/s.

The State of Maharashtra ... Respondent

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SANTOSH
KAMBLE

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Mr.Aniket Nikam i/b Mr.Amit Icham, for the Applicant.
Ms.Anamika Malhotra, APP for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th OCTOBER 2023

P.C:-

. By this Application, Applicant is seeking bail in Crime No.654 of 2017 registered with Nigdi Police Station, Pune, for the offence punishable under Sections 143, 147, 148, 149, 302, 323 of the Indian Penal Code ('IPC' for short), under Section 4(25) of Arms Act and under Sections 37(1) read with 135 of Maharashtra Police Act and under Sections 3(1)(i), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999 ("the MCOC Act" for short).

2. It is prosecution's case that, on 20th November 2017 when first informant and his friend Aniket were going towards Aakurdi Gaonthan, at that time Applicant and co-accused assaulted first informant and Aniket Jadhav with sword, stone, fist and blows. In this assault Aniket died. It is alleged that, Applicant had assaulted deceased Aniket with sword.

3. It is contention of the learned counsel for the Applicant that, there are contradiction in the statement of witnesses regarding role of the Applicant. First informant states that, Applicant had assaulted the deceased with sword whereas witness Akash Dhumal who is eye witness states that, he had seen Applicant and other co-accused had caught hold the deceased and other co-accused assaulted the deceased. The learned counsel further submitted that, other accused Niranjana @ Bhawdya Kalbhor who allegedly assaulted deceased along with Applicant has been released on bail. The learned counsel further submitted that, clothes allegedly worn by the Applicant at the time of the incident has recovered from the Applicant, but these are without blood stains. The other co-accused have been

released on bail. Applicant is behind bar more than 6 years. Charge has framed. There is no progress in the trial. Hence, requested to allow the Application.

4. It is contention of the learned APP that, Applicant had assaulted the deceased with sword. There is eye witnesses to the said incident. The sword used in the crime is recovered at the instance of the Applicant. The learned APP further submitted that, in Test Identification Parade, Applicant is identified by the eye witnesses. Applicant has antecedents. He is member of the Organized Crime Syndicate. There is *prima facie* case against the Applicant. Hence, requested to reject the Application.

5. I have heard both learned counsel. Perused FIR and charge-sheet.

6. It is alleged that, Applicant had assaulted the deceased Aniket with sword. First informant has stated that, when he was going with deceased Aniket at that time, Applicant and other co-accused assaulted him and Aniket. Accused No.1 Sonya Kalbhor assaulted deceased with sickle on his head whereas Applicant assaulted the deceased with sword and other co-

accused assaulted deceased with fist blows and stone. The witness Akash Dimal has stated that, Applicant and Bhawdya Kalbhor had caught hold the deceased, but his statement is recorded after three months of the incident. The first informant witnessed the incident and immediately reported the incident to the police and in the said statement he has stated about the role of the Applicant. Moreover, sword used in the crime is recovered at the instance of the Applicant. Trial has commenced. No progress in the trial cannot be a ground to allow the Bail Application, when there is strong *prima facie* case against the Applicant. Applicant is member of Organized Crime Syndicate.

7. In view of above, I pass following order.

ORDER

(i) Application is rejected.

(SHIVKUMAR DIGE, J.)