

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

BAIL APPLICATION NO.2908 OF 2022

Santosh Kondiba Gaikwad ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Vijay R. Gharat for the Applicant.

Mr. H. J. Dedhia APP for the Respondent - State.

Mr. Jayesh Chavan, API, Rabale MIDC police station present.

CORAM : S. M. MODAK, J.

DATED : 9TH AUGUST 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP for the Respondent-State.

2. The present Applicant is accused No.2, out of four charge-sheeted accused. The Applicant is charge-sheeted in the offence bearing No.1 of 2021, under Sections 302 read with 34 of the Indian Penal Code, registered with the Rabale police station on 1st January 2021. The first informant is one Parmeshwar

Bajrang Pawar, and the incident took place in intervening night of 31/12/2020 and 1/02/2021 at about 1.45 hours. At that time the first informant-Parmeshwar and his friend Nagesh Sonkamble had gone to public toilet for purpose of urination. The deceased-Sachin Patil with accused-Akash and Rohit Zhumbade were quarreling. The first informant and Nagesh Sonkamble went there. Accused-Akash Gaikwad and Rohit Zhumbade were assaulting the deceased with fists and blows. Accused-Akash also beat the first informant and his colleague Nagesh. Somehow Nagesh Sonkamble left the spot. The first informant waited there and tried to separate them. Accused-Akash telephoned to someone as a result co-accused Santosh Gaikwad and Sachin Patil came there and they also started beating the deceased-Sachin. They have not paid heed to the advice of the first informant. He was also threatened. The deceased-Sachin fell on the ground and became unconscious. He was taken to Chatrapati Shivaji Maharaj hospital, Kalwa. The doctor declared him dead on arrival.

3. During investigation, four accused persons came to be

charge-sheeted. Admittedly, no weapon is used. Co-accused Shankar Gaikwad, Rohit Zhumbade and Akash Gaikwad were granted bail by this Court. The role of the present Applicant is similar to these accused persons. The rule of parity will be applicable. Hence, the Applicant is entitled to be released on bail. Hence, the following order is passed :

ORDER

- (i) Bail application is allowed.
- (ii) Applicant-Santosh Kondiba Gaikwad arrested in connection with C.R. No.1 of 2021, registered with the Rabale MIDC police station, Thane for the offence punishable under Sections 302 read with 34 of Indian Penal Code, be released on furnishing Personal Bond and Surety Bond in sum of Rs.25,000/-.
- (iii) Applicant shall not threaten the prosecution witnesses.
- (iv) Applicant to cooperate with police as and when required.

- (v) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail, after notice to the Applicant.

4. Bail application is disposed of in the aforesaid terms.

5. It is made clear that these are my *prima-facie* observations.

6. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]