

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

BAIL APPLICATION NO. 3366 OF 2022

Vicky @ Vikrant Shatrughan Tandel ..Applicant

vs.

The State of Maharashtra ...Respondent

Mr.M.J.Bhatt – Advocate for Applicant.

Mr.S.R.Agarkar – APP for the Respondent – State.

Mr.J.L.Bhusare – PSI – Manpada Police Station.

CORAM : S. M. MODAK, J.

DATED : 7TH JUNE 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP for Respondent-State.
2. The Applicant is denied bail by the Court of Additional Sessions Judge – Kalyan predominantly for the reason that he has been identified in the parade. However, when I have perused the papers along with charge-sheet, what I gather is that the present Applicant and the deceased was not having any previous dispute. The incident has taken place on the spur of the moment. The papers do not suggest that the present Applicant along with others have planned to

commit a murder. Furthermore, there is no allegation that any weapons are used. At the most, the deceased was dashed with the help of a car.

3. Furthermore, the First-Informant Peenakeen Kulkarni has changed his version. Initially, on 17th December, 2020 when he lodged the complaint, it was registered as an accidental death case. It was registered under Sections 279, 337, 338 and 304-A of Indian Penal Code, 1860 [“IPC”] and under Sections 134(b) and 184 of Motor Vehicles Act, 1988 [“MV Act”]. Later on, his supplementary statement is recorded wherein he stated that there was scuffle and when the deceased Shashank Mahajan fallen on the ground, the car was taken over him.

4. Even if we read both the statements, what is gathered is that the First-Informant and the deceased on the date of incident that is in between intervening night of 6th December, 2020 and 7th December, 2020 at midnight had gone to Kailas dhaba for the purpose of consuming liquor. When they were about to return home, near Gharda company circle, one car came there. He thought that it is the same Ola car which he has booked. He gave hand signal. One unknown person got down from the car. There was altercation which

has turned into a beating with fist and blows. As a result, the deceased fell on the ground and car was taken over him.

5. As said above, it is contended that an offence under Section 302 of IPC is not disclosed. It is true that the role of the Accused by name Nikhil Ramchandra Sawant who is granted bail by this Court on 22nd July, 2022 in Bail Application No. 2831 of 2021 is different from the present Applicant. Learned APP is right in his submission that this Court has categorically observed in Para No.13 that the said Accused was not identified in the parade. Whereas, present Applicant is identified in the parade.

6. Be that it may, the investigation is complete and and he is behind bar since 2020. One does not know when the trial will begin. His further detention is not required. Hence, order :-

O R D E R

- (i) Application is allowed.
- (ii) Applicant Vicky @ Vikrant Shatrughan Tandel be released on bail in connection with C.R. No. 497 of 2020 registered with Manpada Police Station – Thane on furnishing personal bond and surety bond of Rs.25,000/-.
- (iii) Applicant not to threaten the Prosecution witnesses

or to allure them in any manner.

- (iv) Applicant to attend the trial Court punctually.
- (v) Applicant to co-operate the Police as and when required.
- (vi) In case of breach of any of the conditions, the bail of the Applicant is liable to be cancelled after notice.

7. These are my prima facie observations. Let the learned trial Court need not be influenced by them.

8. Application is disposed of in the aforesaid terms.

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

[S. M. MODAK, J.]