

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

BAIL APPLICATION NO. 3556 OF 2022

Vishal Sunil Javeri

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr.Raju Suryawanshi a/w Mr.Suraj Naik – Advocates for Applicant.

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

Mr.Madhukar Mali – Head Constable – Crime Branch Unit No.4 –
Ulhasnagar – Thane City.

CORAM : S. M. MODAK, J.

DATED : 2ND AUGUST 2023

P. C. :

1. Heard learned Advocate Shri.Suryawanshi for the Applicant and learned APP. The Officer from Ambernath Police Station is present.

2. So far as the allegation against the present Applicant is concerned, it includes sitting in Mahindra Pickup found at the time of incident and giving dash to the deceased Pappu Gunjal who was a corporator from Ambernath area and was riding on motorcycle. Bail is asked for on the ground of insufficient materials and not

completing the trial inspite of several directions. It is true that this Court has granted bail to co-accused Deepak Kisan Kalimbe as per the order dated 4th July, 2023 in Bail Application No. 3075 of 2022.

The allegation against him was driving Innova car at the time of incident.

3. The FIR is lodged with Ambernath Police Station on 25th December, 2015 by Vinod Sakharam Bhor. The offence is registered under Sections 307, 302, 143, 144, 147, 148, 149, 314 of the Indian Penal Code, 1860 [“IPC”], Section 4(25) of Arms Act, 1959 and under Sections 37(1), 135 of Bombay Police Act, 1951. The name of the deceased is Pappu Gunjal. He had gone to Morivali Naka for the purpose of shaving on 25th December, 2015 at about 10.00 a.m. When the First-Informant went there, he saw the deceased was surrounded by 15 to 16 persons and they were assaulting the deceased with sword and choppers. The present Applicant is one of the assailants. Once the deceased fallen down, the Innova car and Mahindra Pickup Van and that motorcycle went in the direction of Morivali.

4. Learned APP pointed out to me the following materials :-

(a) The present Applicant named in the FIR.

- (b) The supplementary statement - the First-Informant has stated that the present Applicant was driving Mahindra Pickup Van. Whereas, Deepak who is granted bail was driving Innova car.
- (c) There is memorandum statement given by the present Applicant (Page No.38) wherein he has admitted about giving a dash to the motorcycle driven by the deceased. Dash was given by Mahindra Pickup Van driven by him. Furthermore, he has also shown the place where he has concealed himself prior to arrest (Page No.38). Learned APP submitted that this is the additional material against the present Applicant.
- (d) There is statement of eye witness Altaf Najeer Shaikh (Page No.58) and others who have stated that the deceased riding on motorcycle was dashed by Mahindra Pickup Van and subsequently, it was disclosed that it was driven by the present Applicant.
- (e) My attention is invited to the observations in Para No.4 of the order passed by the learned Additional Sessions Judge – Kalyan.

5. Whereas, learned Advocate Shri.Suryawanshi submitted that these are the only materials and there is no allegation that the present Applicant assaulted the deceased with the help of a weapon except the general allegation.

6. I am inclined to grant him bail. Even if there is a material that present Applicant dashed the deceased and thereby assisted the

assailants to assault him, the fact remains that there are no allegations that he has assaulted the deceased with the help of weapons.

7. It is also true that he is behind bar since 2015 and there are 7 witnesses examined out of 25 witnesses and one does not know when the trial will be over. So, '*right to speedy trial*' is infringed. So, he is entitled to bail. Hence, order :-

ORDER

- (i) Application is allowed.
- (ii) Applicant - Vishal Sunil Javeri arrested in connection with C.R. No. 337 of 2015 registered with Ambarnath Police Station for the offences punishable under Sections 307, 302, 143, 144, 147, 148, 149, 314 of IPC, Section 4(25) of Arms Act and under Sections 37(1), 135 of Bombay Police Act, be released on bail on furnishing personal bond and surety bond of Rs.50,000.
- (iii) Applicant is directed not to enter the territorial limits of Ambarnath Revenue Taluka.
- (iv) The Applicant is directed to supply his alternate place of residence to the Crime Branch – Unit No.1 – Thane prior to furnishing surety.
- (v) Applicant is directed to give attendance to the Office of Crime Branch – Unit No.1 – Thane on every Friday from 10.00 a.m., to 12.00 noon until completion of the trial.
- (vi) Applicant shall not threaten the Prosecution witnesses.

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

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

9. Application is disposed of in the aforesaid terms.

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

[S. M. MODAK, J.]