

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

BAIL APPLICATION NO. 3419 OF 2022

1. Vaibhav Parshuram Pawar	
2. Mayur Parshuram Pawar	...Applicants
vs.	
The State of Maharashtra	...Respondent

Mr. Shantanu Phanse a/w Mr. Nilesh Navale - Advocate for the Applicant

Mr. H. J. Dedhia - APP for the Respondent-State
ASI A. R. Shaikh – Padgha Police Station, Thane

CORAM : S. M. MODAK, J.

DATE : 07th JULY, 2023

P. C. :-

1. One Wasim @ Salim Siddhique died on 10/06/2022 due to injuries caused to him all over the body. He was employee of one Mehfooz Khan. Though initially, Mehfooz Khan lodged the complaint on 10/06/2022 with Padgha Police Station, subsequently it was disclosed that in fact he is also involved in causing homicidal death of the deceased. Initially, the F.I.R. is registered under Sections 143, 145, 147, 149 and 302 of the Indian Penal Code against the owner of the motor cycle which was stolen and his eight to ten associates. The motor cycle belongs to the present Applicant-Vaibhav. Initially, there

was suspicion raised on the deceased Wasim @ Salim Siddhique and two of his associates for stealing that motor cycle. The Police have recorded various statements. During investigation, some of them were recorded immediately on 11/06/2022. Whereas few others were recorded after gap of one month that is almost on 28/07/2022.

2. According to the learned Advocate Shri Phanse, there is lot of inconsistencies in between the statement of these two sets of the witnesses. He read over one such statement recorded on 11/06/2022 of one Javed Ahmed Khan. He has stated that the first informant-Mehfooz Khan beaten the deceased-Wasim @ Salim Siddhique and one Bobby with iron rod and there were seven to eight persons. This happened on 09/06/2022 after 01.00 p.m.. Whereas another set of witness has stated different story. One of such statement is that of Bobby who accompanied the deceased is dated 28/07/2022. All of them were taken near Antariksh godown where subsequently Mehfooz Khan came alongwith deceased. The Mehfooz Khan started beating even this witness Bobby, it was on account of suspicion for stealing the motor cycle. Furthermore, this Applicants have also participated in the act of beating the deceased.

3. Further contention is that the deceased was not given

immediate treatment and statements of his brother Mohammad Siddhique dated 18/06/2022 is at page no. 230. He was taken home and even Doctor was called. Some treatment was given. He was advised to take deceased to the hospital. In the intervening night the Salim omits and then doctor was called. Some treatment was given however, on the next date at 7 a.m., that is on 10/06/2022 he was lying motionless. Doctor was called and he was declared dead.

4. The contention is that there are general allegations. Whereas learned APP brought to my notice CCTV footages collected in the pen drive from that godown. File Nos. 1 and 2 mention about how the deceased was beaten. File No. 2 mentions of the present Applicants have also beating the deceased. He was identified by one Liladhar Waman Lute.

5. The post mortem report mentions that death was due to hemorrhage shock due to the injuries. Contention is raised the offence will not fall under Section 302 of the Indian Penal Code as there are no intention to commit murder. Earlier Mehfooz Khan also beaten him, so Applicants cannot be held solely responsible. I am inclined to grant them bail for the reason though allegations are serious in nature, even witnesses have said that accused Mehfooz

Khan has also beaten him in different incident. The charge-sheet is already filed. There are no criminal antecedents. Hence the Order:-

ORDER

- (i) Bail application is allowed.
- (ii) Applicant No. 1 – Vaibhav Parshuram Pawar and Applicant No. 2 – Mayur Parshuram Pawar arrested in connection with C.R. No. 193 of 2022 registered with Padgha Police Station for the offence punishable under Sections 302, 143, 145, 147, 148, 149, 324, 365, 323, 107, 114 of the Indian Penal Code, be released on bail on furnishing Personal bond and surety bond in sum of Rs. 25,000/- each.
- (iii) Applicants are directed to give attendance to the Padgha Police Station, Thane on first and third Saturday from 10.00 a.m. to 12.00 noon for one year.
- (iv) Applicants shall not threaten the prosecution witnesses.
- (v) Needless to say, violating of the condition above will make the Applicants liable for cancellation of bail after notice.

6. It is made clear that the these are my prima facie observations and the trial Court shall decide the case on its own merits without influenced by the observations made in this order.

7. Application is disposed of in the aforesaid terms.

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

[S. M. MODAK, J.]