

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3370 OF 2022

Sunil Bhagwan Kale

...Applicant

V/s.

The State of Maharashtra

... Respondent

NILAM
SANTOSH
KAMBLE

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Mr.Mahesh M. Punde, for the Applicant.
Ms.P.N. Dabholkar, APP for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th AUGUST 2023

P.C:-

. By this Application, Applicant is seeking bail in Crime No.I-52 of 2019 registered with Ulhasnagar Police Station for the offence punishable under Sections 302, 326, 341, 143, 148, 149 and 504 of the Indian Penal Code.

2. It is the case of the prosecution that :

The Complainant Suman Dinesh Sharma has lodged Complaint alleging that on 11th February 2019, when she was at

her house at about 11.30 p.m., one Ajay Balerao informed her that while he along with Ravi Sharma (Deceased) were going to drop motorcycle of one Montu at about 10.30 p.m. near Nijam Building they saw Akshay singh, Chintu Khalifa, Yama Yadav, Akshay Kale, Vijay Kale and three to four others. They intercepted them and caught the collar of Ajay Bhalerao due to which both fell down from motorcycle, then they all started threatening and abusing both Ravi and Ajay and assaulted them by iron rod and wooden stick, at that time persons passing from said area saved them. Thereafter, they both took autorikshaw on hire and went Police Station. Police took them to Central Hospital, then Complainant lodged complaint. Initially Police had registered the offence under Sections 326, 341, 147, 148, 149 and 504 of IPC. On 8th June 2019 Ravi Sharma died due to Septicemia, then offence under Section 302 of the IPC was added.

3. It is contention of the learned counsel for the Applicant that Applicant name was not mentioned in FIR. No

where it was mentioned that present Applicant was wanted as suspected in present crime and no where his involvement is so stated in case of prosecution while opposing Bail Application No.599 of 2019. The complainant Ajay has not named the present Applicant in his 161 statement and also in statement under Section 164 of Cr.P.C. This shows that Applicant has been falsely implicated in this case.

4. The learned counsel further submitted that, accused namely Akash Ramesh Gore and Ranjit Tukaram Kasale got regular bail, whereas some of the accused had got anticipatory bail. No TI Parade was conducted. The Applicant is permanent residence of Village Mharalgaon, Kalyan, District-Thane and he is unlikely to abscond. The Applicant is in jail since more than 14 months. He is the only earning member of his family. Hence, requested to allow the Application.

5. It is contention of learned APP that, Applicant has criminal antecedents. Many offences are registered against the

Applicant. When present offence was committed by the Applicant he was on bail in offence under Section 307 of IPC. If the Applicant is released on bail he may influence the prosecution witnesses. Hence, requested to dismiss the Application.

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

7. Admittedly, the name of Applicant is not mentioned in the FIR. In the supplementary statement of Ajay Bhalerao dated 14th April 2019 name of the Applicant has been stated. No specific role of Applicant has been mentioned in the statement. The statement of this witness under Section 164 is recorded before the Magistrate. In the said statement he has not taken the name of the Applicant. It appears from the record that the incident happened in February 2019 at that time name of Applicant was not mentioned and his name was taken by the Complainant after three days of the incident. Other accused in the said crime have been released on bail, except the present

Applicant. Investigation is completed and charge-sheet has been filed. Through there are other cases registered against the Applicant but he has been released on bail in these cases. The Applicant is in jail since more than 14 months. No further detention of the Applicant is required.

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

ORDER

(i) The Applicant be released on bail in Crime No.I-52 of 2019 registered with Ulhasnagar Police Station, District-Thane, on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

(ii) After his release from jail the Applicant shall attend the Ulhasnagar Police Station, District-Thane once in a month i.e. on every 1st Monday of the month between 11.00 a.m. to 3.00 p.m. till the conclusion of the trial.

(iii) The Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

(iv) Application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)