

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3848 OF 2022

Tirupati @ Takya Vithhal Lashkare

..... Applicant

Versus

State of Maharashtra

..... Respondent

Mr. Aniket Nikam i/b. Mr.Amit Icham, Advocate for Applicant.

Mr. Y. Y. Dabke, APP for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 29th SEPTEMBER, 2023.

PC. :

1. By this application, applicant is seeking bail in Crime No.1108 of 2021 registered with Hadapsar Police Station, Pune, for offences punishable under Sections 302, 307, 109, 120-B, 504, 506, 143, 147, 148 and 149 of Indian Penal Code, Section 3 and 7 of Criminal Law Amendment Act, Section 37(1)(3) read with Section 135 of Maharashtra Police Act and Section 25(4) of Arms Act.

2. It is prosecution's case that accused persons along with deceased- Ajay Ruke had been to Karde beach, Konkan. There co-accused Krushna @ Chikya Subhash Balurgi had stolen mobile charger of deceased. Therefore, deceased Ajay asked him why he stole the

charger. Thereon Krushna quarreled with deceased and threatened him. Thereafter on 14th December 2021, deceased was assaulted by accused – Krushna along with other co-accused with sickle due to said assault deceased died. Initially on the complaint of first informant-mother of deceased, offence was registered on 15th December 2021 against five accused. In the supplementary statement of first informant dated 24th December 2021, name of applicant was added. Allegations against applicant are that the said incident had happened on the say of applicant.

3. It is contention of learned counsel for applicant that the incident of assault on deceased is witnessed by first informant and she has specifically stated the name of accused who assaulted deceased and two other accused who were standing on Aactiva motorcycle at the time of incident who instigated the other co-accused. Learned counsel further submitted that after 10 days of the incident, the name of applicant is added in the crime. No role is attributed to the applicant, only it is mentioned that on the say of the applicant, the said incident had happened. There is no incriminating material produced on record to show the role of the applicant in the said crime. Applicant is behind bar for more than one year and five months. Investigation is

completed and charge-sheet has been filed. Hence, requested to allow the application.

4. Learned APP submitted that the incident of assault on deceased happened on the say of applicant. In confession statement, co-accused has stated that assault was done on the say of applicant. Witness – Somnath has also stated that same fact. It shows prima facie case against the applicant. Hence, requested to reject the application.

5. I have heard both learned counsel, perused the FIR and charge-sheet.

6. It is alleged that the incident of assault on deceased was done on the say of applicant. In FIR, name of applicant is not mentioned. His name is mentioned after 10 days of the incident by way of supplementary statement. Whether applicant was a part of conspiracy or not will be part of trial. Applicant is behind bar for more than one year and five months. Investigation is completed and charge-sheet has been filed.

7. In view of above, I pass following order :

ORDER

- (i) Applicant be enlarged on bail in Crime No.1108 of 2021 registered with Hadapsar Police Station, Pune, on executing PR.Bond in the sum of Rs.25,000/- with one or two sureties

in the like amount.

(ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.

(iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.

(iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

8. The application is allowed in the aforesaid terms and is accordingly disposed off.

9. It is made clear that the above observations are made only for the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

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

(SHIVKUMAR DIGE, J.)