

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

BAIL APPLICATION NO. 3731 OF 2022

Vaishali Manoj Yewale and Anr.	...Applicants
vs.	
The State of Maharashtra	...Respondent

Mr. Umesh H. Pawar - Advocate for the Applicants
Mr. H. J. Dedhia - APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 31st JANUARY, 2023

P. C. :-

1. Learned Advocate seeks liberty to withdraw the Application so far as applicant Karan is concerned and seeks liberty to move again after some time. Liberty prayed is granted. He is at liberty to move after six months. Heard learned Advocate for the Applicant Vaishali and learned APP for the Respondent-State.

2. The F.I.R. is lodged by the Krushnabai Yewale who is mother of the deceased Vishal. The incident took place on 27/04/2022 in front of house of Aatmaram Yewale. Deceased Vishal

left the house at about 7.30 p.m., but he has not returned and hence first informant went to search him. She saw quarrel in between the deceased Vishal on one hand and accused Popat Yewale and others and it consists of the present Applicant Vaishali and Others.

3. The background of the incident is that deceased Vishal has married to one Pratiksha and she is from the family of Yewale. Pratiksha was not co-habiting with deceased Vishal and that is why incident took place. The assailants beat deceased and assaulted him with the help of stick, iron rod, and knife. Stick was possessed by the Applicant Vaishali. The first informant tried to intervene and she was also assaulted. The deceased was taken to Krishna Hospital, Karad from the vehicle of one Santosh Yewale. Vishal succumbed to the injuries and F.I.R. came to be lodged with Aundh Police Station under Sections 302, 324 read with 34 of the Indian Penal Code.

4. There is an issue raised about filing concocted F.I.R.. My attention is invited to the report of the dog squad at page no. 205. Intimation was received by the dog squad on 28/04/2022 at about 2.20 hours. Whereas the F.I.R. is registered on 28/04/2022 at 9.15

a.m. that is afterwards. According to the learned APP, prior to the registering the offence information was already received by the Police on 28/04/2022 at 1.30 hours.

5. Charge-sheet is already filed. Learned Advocate for the Applicant pointed out certain inconsistencies from the statements of the witnesses recorded and he tried to submit that on that basis it can be said that the story is concocted. There are statements recorded under section 161 of Code of Criminal Procedure and witness Dadasaheb, who is father of the deceased. There are statements recorded under Section 164 of the Criminal Procedure Code of the first informant Krushnabai and the said Dadasaheb. Certain inconsistencies are pointed out from the Police Statement and Section 164 statement.

6. Even though sticks are recovered from the Applicant, my attention is invited to findings given by the Doctor about absence of stains on that stick at page no. 125. Though there is recovery of clothes from the Applicant, there are no blood stains. My attention is also invited to cause of the death and post mortem report. Injuries to

head is cause of death. Whereas learned APP submitted that there are several injuries on the head, chest and other parts of the body and according to him it suggests how the accused brutally assaulted the deceased.

7. My attention is also invited to the statement of the witnesses Atul Adsule, dated 29/04/2022 at page no. 173. He was informed about incident by Popat Yewale, who is one of the accused. Thereafter witness Atul Adsule has informed to the Aundh Police Station. Attempt is made to treat this intimation to Police and rather than F.I.R. lodged by Krushnabai.

8. It is true that we are dealing with the bail application pending inquiry and trial, so we have to see what are the materials and whether one material corroborates with another material is not expected at this stage.

9. It is true that there is an allegation that Applicant assaulted the deceased with the help of stick. Furthermore, there are also other accused persons who have beaten the deceased with the

help of other weapons. From the allegations in F.I.R., it is clear that the assault was very brutal that is why there are various injuries to the deceased.

10. So I think the discretion can be exercised in favour of Applicant No. 1-Vaishali as she being a woman.

11. Hence Application can be allowed for her. Hence the Order:-

ORDER

- (i) The Applicant No. 1-Vaishali Manoj Yewale be released on bail on furnishing PR Bond and Surety Bond of Rs. 25,000/- in connection with C.R. No. 88/2022 registered at Aundh Police Station for the offence punishable under Section 302, 324 read with 34 of the Indian Penal Code.
- (ii) She shall not threaten the prosecution witnesses.

[S. M. MODAK, J.]