

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3945 OF 2022

Umesh Ramchandra Parab ... Applicant

V/s.

State of Maharashtra ... Respondent

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Mr. Ranvir Shekhawat a/w. Mr. Jagdish Chaudhary i/b. M/s. Raj
Legal for Applicant.
Ms. Anamika Malhotra, APP for Respondent-State.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 6th SEPTEMBER 2023

P. C:-

1. By this Application, Applicant is seeking bail in C.R.No. 158 of 2021 registered with Powai Police Station for the offence punishable under Section 302 read with 34 of Indian Penal Code, 1860 (for short "IPC").
2. It is the prosecution's case that deceased was a son of first informant. Applicant along with other co-accused assaulted the deceased with iron rod and with fist and blows, due to the said assault deceased died.

3. It is the contention of learned Counsel for the Applicant that deceased was caught red handed while stealing the iron pipes. It has come in the statement of father of deceased that deceased was not doing anything, he had habit of stealing of articles from Metro Project. On that day when deceased was caught red handed by security guard of Applicant's company, he was beaten up by security guard present there. The role attributed to Applicant is that he assaulted the deceased with iron rod and in statement of some eye witnesses it is mentioned that, he had beaten up deceased with fist and blows.

4. Learned Counsel further submitted that the iron rod which is seized at the instance of Applicant is 80cm long and no serious injury was caused to the deceased by Applicant. The medical certificate shows that there was no serious injury on the body of the deceased. Applicant is behind the bar more than two years. Investigation is completed and charge-sheet has been filed. Hence, requested to allow the Application.

5. It is contention of learned APP that deceased was assaulted by the Applicant and other co-accused with iron rod, wooden stick, fist and blows, even the video shooting of the said incident was recorded. Applicant had assaulted the deceased with iron rod, due

to which deceased was unable to get up. After the said assault deceased was died. It shows the involvement of Applicant in the crime.

6. Learned APP further submitted that the bail of co-accused is rejected by this Court. The role of the Applicant is standing on the same footing that of co-accused. Hence, requested to reject the Application.

7. It is the contention of learned Counsel for the Applicant that the co-accused whose bail has been rejected by this Court, his role was different, and some offences were registered against him. Applicant has no antecedents.

8. I have heard both the learned Counsel.

9. Perused the FIR and charge-sheet. In the statement of eye witness Mandar Ambedkar he has stated that Applicant and other co-accused assaulted the deceased with fist and blows and iron rod. The eye witness Bhavesh Tamhankar has stated that Applicant assaulted deceased with iron rod. Eye witness Shubham Navadkar has stated that initially, Applicant assaulted the deceased with fist and blows and thereafter he assaulted the deceased with wooden bamboo. Thereafter Applicant told this witness to record the shooting of the said assault and asked him to send it on their

whatsapp group. Thereafter, deceased was taken to other place and there Applicant along with other co-accused assaulted deceased with wooden stick and iron rod on his stomach, back, shoulder and leg and seriously injured him. From the statements of these eye witnesses it reveals that, the Applicant has played active role on assault of the deceased. It appears from the statement of eye witnesses that, initially Applicant assaulted deceased with fist blows thereafter with wooden sticks and thereafter with iron rod. It shows his involvement in the crime. Though, Applicant is behind the bar more than two years, it cannot be a ground to allow this Application.

10. Moreover, the bail application of the co-accused is rejected by this Court.

11. In view of the above, I pass following Order:-

(i) Application is rejected.

(SHIVKUMAR DIGE, J.)

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