

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

BAIL APPLICATION NO. 2216 OF 2023

Sachin @ Bandu Namdev Yadav

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. A. U. Nikam i/by Mr. Amit Icham	Advocate for the Applicant
Mr. Y. Y. Dabke	APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 27th MARCH 2024

P. C. :-

1. Heard learned Advocate Shri Nikam for the Applicant and learned APP.
2. It is true that this Court has dealt with Criminal Bail Application 2712 of 2022 filed by co-accused Kunal Bhanudas Yadav and rejected it on 06/01/2023. That is why as per Order passed by the Hon'ble Chief Justice, this bail application is placed before me.
3. Learned Advocate Mr. Nikam strongly insisted for giving the benefit of the parity. It is for the reason that even though this Court has

refused the bail to co-accused Kunal Yadav, the Hon'ble Supreme Court has granted him bail as per Order dated 03/11/2023. It is produced and marked as 'Annexure-X'.

4. Learned APP tried his level best by submitting that the role of the accused-Kunal is different from the present Applicant-Sachin Yadav, who is described as Bandu Foujee in the statement of the witness. Furthermore, he submitted that at his instance, three wooden logs are also seized.

5. Learned APP invited my attention to one of such statement. It is of Omkar Prakash Pawar, who is one of the injured and he is brother of the deceased-Prashant. It is on page no. 46. He invited my attention to various facts stated by him. It is true that the witness-Omkar has said about beating him by the present Applicant with the help of fiber sticks and wooden logs. He was also threatened not to tell the truth. In the same incident, his father Prakash was also injured. It is true that injured Omkar has also stated that accused no. 1-Prakash Yadav and Bandu Foujee have given an idea that they will portray before villagers that in fact there was no incident of assault but the accident. It is there on page no. 42.

6. As against this learned Advocate Mr. Nikam submitted that the role of the Kunal and this Applicant can be equated. It is for the reason that though Kunal is not named by the eye witness he is identified in the parade. Furthermore, there is recovery of the weapons though different and there is an extra-judicial confession given by Kunal which is not there in case of present Applicant. It is true that in the incident of such kind wherein initially the offence is registered as traffic offence by the injured only however later on it was revealed that it was not the traffic incident but it was case of the plain murder. In such a case when several persons are involved you cannot expect that the role will be similar and even materials will be similar. Ultimately, the Court has to consider what is nature of the materials and its effect.

7. If considered from that perspective the fact that the present Applicant is named by the injured witness. in fact this Court today can reject his bail application also just like it was rejected for the co-accused Kunal. The circumstances against Kunal are also narrated in the said Order in para no. 12. However this Court is inclined to take a different view, in view of the fact that the Hon'ble Supreme Court has granted bail to the Applicant-Kunal. Furthermore, the witness Omkar has

described one of the assailant as Bandu Foujee and not taken the name of the Applicant as Sachin Yadav (though taken in the supplementary statement), so let the Applicant be granted bail.

8. Hence Order

ORDER

(i) Bail Application is allowed.

(ii) The Applicant-Sachin @ Bandu Namdev Yadav arrested in connection with C.R. No. 159 of 2021 registered with Khandala Police Station for the offence punishable under Sections 143, 147, 148, 149, 302, 307, 326, 324, 347, 120-B, 201, 504 and 506 of the Indian Penal Code be released on bail on furnishing Personal bond and Surety bond in sum of Rs. 50,000/-.

(iii) Applicant shall not enter the village Khandala, Taluka Satara till conclusion of the trial.

(iv) Applicant not to threaten the prosecution witnesses.

9. Bail Application is disposed of.

[S. M. MODAK, J.]