

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

**BAIL APPLICATION NO. 3694 OF 2023**

Vaibhav Ramesh Babar

....Applicant

**Versus**

State of Maharashtra

....Respondent

-----

Mr. Umesh R. Mankpure, Advocate for the Applicant.

Smt. S. G. Talhar, APP, Advocate for the Respondent-State.

-----

**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 27<sup>th</sup> MARCH, 2024.**

**P.C. :**

1. By this application, applicant is seeking bail in Crime No.124 of 2019 registered with Vishrambag Police Station, Sangli for offences punishable under Sections 302, 307, 120-B, 109, 143, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code, 1860 (for short "IPC") and under Sections 4(25)(27) of the Arms Act, 1959, and Sections 135 of Maharashtra Police Act and Sections 3(1)(i)(ii), 3(2), 3(4), of the Maharashtra Control of Organized Crimes Act, 1999 (for short "MCOC").

2. It is prosecution's case that on 10<sup>th</sup> April, 2019, the first informant Suraj Sahani got call from his friend Mahesh Naik (for short "Deceased") and told him that they have to go to Birthday party of Guru Vynkal and called him near water tank at Gulab Colony. The first informant Suraj Sahane along with his friends Sahebrao went there. At that time Shubham Kundgol, Shubham Pattanshetty, Omkar Pawar, Vishal Korat, Ganesh Babladi, Mahesh Naik and Vishal Kost were standing there. Thereafter, first informant Suraj Sahani and Sahebrao on his bike and others by Innova Car went to the Mahavir Colony, Old Dhamani Road, Sangli. They parked there vehicles on side of the road and went to the venue.

There was a lot of crowd, at around 9:15 p.m. Leader of the Joy group Sachin Dongare along with members Suresh Shinde, Sagar Mahanur, Pravin Babar, Gopal Pujari, Shushant Kadam, Riyaz Kirjagi, Maruti Shide, Raj Patil, Prashant Surgade and other two to three persons came there and went on stage to wish and also cut the cake. The first informant Suraj Sahani along with his friend was having dinner at that time. Sachin Dongare and his friends came there and started circling them. Thereafter, Sachin Dongare and Pravin Babar started to abuse Mahesh Naik and said that they won't

leave Mahesh Naik and friends alive. Then Sachin Dongare, Pravin Babar, Gopal Pujari, Sushant Kadam, Suresh Shinde and Raj Patil pulled out sharp weapons like Knife and Riyaz Kirjagi, Maruti Shinde, Prashant Surgade and Sagar Mahanur caught hold of Mahesh Naik. Thereafter, Sachin Dongare, Gopal Pujari, Sushant Kadam, Pravin Babar, Suresh Shinde and Raj Patil assaulted Mahesh Naik with sharp weapon with an intention to kill him. Due to the assault, Mahesh Naik fell down.

At that time, Ganesh Babladi was trying to rescue Mahesh Naik. At that time Riyaz Kirjagi and Sushant Kadam caught hold of Ganesh and Pravin assaulted on his chest with sharp weapon. The first informant Suraj Sahani and his friends tried to save Ganesh and Mahesh Naik but Sachin Dongare threatened them with weapon. Mahesh Naik and Ganesh Babladi fell down. Then Riyaz Kirjagi, Sushant Kadam, Prashant Surgade, Sagar Mahanur and others two or three persons assaulted him with kicks and blows. Thereafter, Sachin Dongare threatened the person who gathered there. People who had came to the event ran away, due to terror, no one came to help them. The first informant Suraj Sahani and his friend took the injured in hospital. The Doctor examined the Mahesh and declared

him death, thereafter, Suraj lodged complaint.

3. It is contention of learned counsel for the applicant that name of applicant was not mentioned in the FIR. Thereafter, in supplementary statement of injured Ganesh Babladi, the name of applicant was added in the said crime. It is alleged by Ganesh that on the day of incident applicant with other co-accused assaulted Mahesh Naik with chair. Learned counsel further submits that applicant was not declared absconded and he has been arrested after two years of the incident. There is no evidence on record to show the involvement of the applicant in the present crime. The co-accused who was present on the spot and who was involved in the crime has been released on bail by this Court (Coram: Amit Borkar, J). Only one case is registered against the applicant. Hence, requested to allow the application.

4. It is contention of the learned APP that the eye witness has specifically stated that applicant assaulted deceased with chair, on that basis applicants name is added in the present crime. As applicant was part of the syndicate crime his role was crucial. Not mentioning his name in the FIR cannot be a ground to grant a bail.

He was absconding for two years hence, he could not be arrested, after statement of the injured witness (Ganesh Babladi). If applicant is released on bail, he may threaten the prosecution witnesses hence, requested to reject the application.

5. I have heard both learned counsel. Perused FIR and Charge Sheet. Admittedly, name of applicant was not mentioned in the FIR. On 4th September, 2019 in supplementary statement injured Ganesh Babladi took the name of applicant stating that today he was going for some work, he saw applicant and realized that he was the person, who assaulted the Mahesh with chair on 10th April, 2019 when incident had happened. It appears from record that incident happened on 10th April, 2019 whereas, supplementary statement of injured Ganesh was recorded on 4th September, 2019. The applicant has been arrested after two years on 13th January, 2021. Applicant was not declared as absconding person. This Court (Coram: Amit Borkar, J.) has granted bail to the co-accused who was involved in the crime. Considering the fact that applicant's name was not mentioned in the FIR, it was added after five months of incident and he was arrested two years after adding name in present crime as well as investigation is completed and charge-sheet has been filed.

Applicant is entitled for bail on principle of parity.

6. Considering the above facts, his further detention is not required.

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

### **ORDER**

- (i) The application is allowed.
- (ii) The applicant Vaibhav Ramesh Babar be released on bail in connection with C.R.No.124 of 2019 registered with Vishrambag police station, on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.
- (iii) The applicant shall mark his attendance with the concerned police station on first Saturday of each month between between 11:00 am to 2:00 pm till conclusion of trial.
- (iv) The applicant shall remain present before the trial Court on each date unless exempted by the Trial Court.
- (v) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness

acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court.

(vi) The applicants shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case.

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

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

**(SHIVKUMAR DIGE, J.)**