

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO.11 OF 2024**

VISHAL  
SUBHASH  
PAREKAR

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Date: 2024.03.07  
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Pravin Shyamrao Wankhede

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Rohit Gorade a/w. Mr. Vijay Pattebahadur, for the Applicant.

Mrs. G.P. Mulekar, APP, for the Respondent/State.

**CORAM : N. J. JAMADAR, J.**

**DATE : MARCH 05, 2024**

**P.C.:**

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. The applicant who is arraigned in C.R. No. 52 of 2021 registered with Bhandup police station for the offences punishable under section 302 read with 34 of Indian Penal Code, 1860 seeks to be enlarged on bail.

3. The first informant was in a relationship with the sister of accused No. 1. However, on account of opposition of the family of accused No. 1, the first informant broke off the relationship. The accused No. 1 and his family members had a grudge against the first informant and raked up quarrels with the family of the first informant on one or the other pretext.

4. On 2<sup>nd</sup> March, 2021 at about 8 pm the first informant and his brother Samir Pawar (the deceased) came in front of Gurukrupa Grocery shop from Ambedkar Nagar, Bhandup (w). The deceased asked the first informant to proceed ahead. While the first informant was on his way to home, he heard alarm raised by the deceased. When the first informant turned back, he found the applicant assaulting the deceased by means of a knife. Co-accused Vishwajeet Brahmane was armed with an iron rod. The co-accused Pawan Brahmane and Abhijeet Brahmane also assaulted the deceased by fist and kick blows. As the first informant raised alarm, the applicants and the co-accused fled away. The deceased eventually succumbed to the injuries.

5. Mr. Gorade, the learned counsel for the applicant, submitted that the applicant had no concern with the dispute between the first informant and the co-accused Vishwajeet. The applicant has been falsely roped in. The applicant has been in custody since 3<sup>rd</sup> March, 2021. Therefore, the applicant deserves to be enlarged on bail.

6. The learned APP stoutly contested the prayer for bail. It was submitted that the applicant was the principal assailant and gave fatal blow by means of knife. In addition, pursuant to the disclosure

statement made by the applicant, a blood stained weapon of offence i.e. knife has been recovered. As the eye witnesses are the residents of the very same locality, there is a strong possibility of tampering with the evidence and threatening the witnesses.

7. I find substance in the submission of the learned APP. The role of assaulting the deceased by means of knife has been attributed to the applicant. Apart from the first informant, four other witnesses have stated that the applicant assaulted the deceased by means of knife. The postmortem report indicates that there were stab and incised injuries over the neck and face of the deceased. The autopsy surgeon has opined that the cause of death was 'haemorrhage and shock due to stab injury over neck'. Prima facie, the fatal injury sustained by the deceased appears to co-relate with the role of assault by means of knife, attributed to the applicant.

8. In addition to direct evidence, the discovery allegedly made by the applicant leading to recovery of weapon of offence also incriminates the applicant.

9. The fact that the deceased was killed on a public road at busy hours and the occurrence was witnessed by a number of persons

can not be lost sight of. Apprehension on the part of the prosecution that there is a strong possibility of tampering with evidence and threatening the witnesses, in the event the applicant is released on bail, cannot be said to be unfounded.

10. I am, therefore, impelled to hold that this is not a case where the discretion to release the applicant on bail can be exercised.

Hence, the following order.

#### **ORDER**

- 1] The application stands rejected.
- 2] By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

**(N. J. JAMADAR, J.)**