

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

BAIL APPLICATION NO. 582 OF 2024

Kaluram Krishna Kadav

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Gaurav Parkar	Advocate for the Applicant
Mr. V. N. Sagare	APP for the Respondent-State
Mr. Gautam T. Kanchanpurkar a/w Ms. Priya A. Patil	Advocate for Intervenor.

CORAM : S. M. MODAK, J.

DATE : 07th MAY 2024

P. C. :-

1. Heard learned Advocate Shri Gaurav Parkar for the Applicant and learned APP Shri Sagare for Respondent-State and learned Advocate Shri Kanchanpurkar for the first informant at great length.

2. On 02/05/2024, learned APP has placed reliance on panchnamas about seizure of the pen drive produced by two witnesses by name Vaibhav Partole at page no. 120 and by witness Bhavesh Shashikant Gondhali, at page no. 126. The Pen drive contains the recording on a mobile handset of those two witnesses. The recording was played with the help of laptop and panchnama contains what is

seen in those recordings. This Applicant is seen alongwith knife which tucked to his pant.

3. It is disputed by learned Advocate Shri Parkar. On that date according to him even his client was having recording and it is not seized by the Police. Today officer is present and he has brought sealed envelope containing that Pen drive. I have not seen it.

4. Both the sides have invited my attention to the various documents. There are two charge-sheets. The present application is arising out of charge-sheet filed in C.R. No. 57 of 2023 and offence is 307, 143, 147, 148, 149, 326, 324, 323, 504 and 506 of the Indian Penal Code. Whereas in counter case, there is an offence registered under Section 302 of the Indian Penal Code. Wherein there is a death of the Ramchandra Botkondle. Whereas in the present crime the injured Rajesh Sutar was badly injured that is why offence under Section 307 of the Indian Penal Code.

5. It is true that in both offences many of the accused were either granted regular bail or anticipatory bail. It is contended that the present Applicant is only person who is behind bar in the present offence. Whereas injured Rajesh Sutar who is accused in the counter case is already granted anticipatory bail. It is true that when members

belonging to two groups attacks each other, several persons are involved having different roles. It may also happen that the statements recorded in a particular offence may support the prosecution case in that offence. It may also be true that the statement recorded in the counter case, if considered it may weaken the prosecution case in the earlier offence. So it will be difficult to give findings if all the materials in both the cases considered together.

6. Against this Applicant, there are statements of the witnesses recorded immediately after the incident and the statement of the injured is recorded belatedly on 06/12/2023.

7. There is grievance raised by him about not recording statement earlier. Learned APP gave an explanation that even though he was discharged after 18 days, it was difficult for him to speak and that is why there is a delay. However when the statement of other witnesses are perused, it is important to note that the involvement of this Applicant was known to the Police even earlier to 06/12/2023.

8. There is medical certificate of the injured issued by Crystalcare hospital. One is on page no. 58 and another is on page no. 119. Learned Advocate Shri Parkar submitted that both the certificates are not consistent in sense that in certificate on page no. 119 in the history,

the injured Rajesh Sutar has taken the name of the assault by one Vikas Partole. However this Vikas Partole is member from the side of the injured Rajesh.

9. According to learned APP some mistakes might have happened while recording the history and in the certificate on page no. 58 which was given immediately does not contain the name of any assailant.

10. It is true that Pen drive contains recording and in the panchnama, the name of this Applicant is referred.

11. Learned Advocate Shri Parkar tried to invite my attention to the statement of the wife of his client Arati Kaluram Kadav. It is recorded in the counter case. They are on page no. 436 and page no. 461. They are under Sections 161 and 164 of the Code of Criminal Procedure. In those statements she has tried to explain how the injured Rajesh Sutar sustained injuries. During the previous incident when Arati has fallen on the ground the present Applicant came to rescue her. At that time injured Rajesh also came towards her and in fact he was possessing the knife and during the scuffle the knife touched the abdomen of the Rajesh and that is why injury.

12. Whereas according to the learned Advocate Shri Kanchanpurkar, these statements are recorded in June 2023. Whereas her initial

statement is there on page no. 385 dated 21/03/2023. In that statement she has not given such explanation.

13. Considering the over all circumstances, today I am not inclined to grant bail to the Applicant. His *prima-facie* involvement is disclosed. Even though there may be variance in the statements and other materials, today I am not inclined to grant him bail because the statement of the witnesses suggest that he has pierced the knife in the abdomen. Let him apply after some time. Hence the following Order:

ORDER

- (i) Bail application is rejected.
- (ii) The Applicant is at liberty to apply after six months. At that time, he may produce the roznamas copy.

14. It is made clear that the these are my prima facie observations and the trial Court shall decide the case on its own merits without influenced by the observations made in this order

[S. M. MODAK, J.]