

Sayali Upasani

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

BAIL APPLICATION NO.- 1645 OF 2024

Rohit @ Dhadi Ugde

... Applicant

Vs.

The State of Maharashtra

...Respondent

**SAYALI
DEEPAK
UPASANI**

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Date: 2024.04.20
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Mr. Shadab Khopekar with Salman Khan, for Applicant.

Ms. Ranjana Humane, APP for State/Respondent.

Mr. Gangurde, PSI, Versova Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 19th APRIL, 2024.

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) The applicant, who is arraigned in CR No.133 of 2022 registered with Versova Police Station, Mumbai, for the offences punishable under Sections 302, 141, 143, 144, 147, 148 and 149 of the Indian Penal Code, 1860 ("the Penal Code") has preferred this application to enlarge him on bail.

3) The indictment against the applicant and co-accused, who allegedly committed the murder of the deceased in prosecution of the common object of the unlawful assembly, runs as under:

On 18th March, 2022, Satish Naik, the injured and his friend Suraj Jhinjotiya (the deceased) were having drinks on the road near the mangrove behind Saat Bungalow Bus Depot, Andheri. Co-accused Alam Shaikh, Safarul Shaikh and Abbasuddin Shaikh passed by the injured and the deceased. The latter demanded Safarul to give him money to consume liquor. Safarul declined. Thereupon the deceased abused Safarul and also pelted a stone at him, which hit the head of Safarul. After a while, Ravi Singh and Rohit Ughade, the applicant, passed the injured and the deceased. The latter demanded Ravi Singh to pay money to consume liquor. Ravi Singh also declined and, thereupon, a quarrel ensued. Ravi Singh called co-accused Sonu Shaikh and Ashish Singh.

4) The learned Counsel for the applicant submitted that the co-accused Alam Shaikh, Ravi Singh and Aamir Shaikh @ Sonu have been granted bail by this Court. The applicant is also entitled to the same dispensation as the role attributed to the

applicant is that of catching hold of the deceased while the co-accused- Sonu and others assaulted the deceased.

5) While releasing the co-accused Aamir Shaikh @ Sonu, this Court has observed, inter alia as under:-

“...9. It is true there are allegations against the applicant and Ashish Singh that they had assaulted the deceased by means of wooden stick and plank. However, it is necessary to note that the prosecution also alleges that the co-accused Safarul and Abbasuddin allegedly returned to the scene of occurrence armed with bamboo stick and assaulted the deceased by means of bamboo stick. Ashish Singh was also allegedly armed with a wooden plank.

10. As noted above, the deceased had raked up quarrel with two groups of persons. Few members of both the groups were armed with sticks and wooden plank. There is material to indicate that Ravi Singh had sustained injuries in the very same occurrence.

11. In the circumstances, whether the fatal injury allegedly sustained by the applicant over parital region which resulted in craniocerebral injury can be attributed to the assault perpetrated by the applicant would be a matter for adjudication at the trial. Undoubtedly, the offences were allegedly committed in prosecution of the common object of the unlawful assembly and, therefore, the overall ptt act may not be of decisive significance. However, as noted above, there were two groups of assailants who joined together as the deceased had raked up quarrels with the members of the both the groups and even assaulted Safarul and Ravi Singh.

12. In the circumstances, the questions as to whether the members of both the groups were animated with the common object to commit the murder of the deceased or knew that the said offence was likely to be committed in prosecution of

the common object of the assembly would be a matter for trial...”

6) The aforesaid reasons apply with equal force to the claim of the applicant for bail. The role attributed to the applicant is of relatively lesser degree.

7) In the backdrop of the nature of the occurrence and the reasons which weighed with this Court in granting bail to the co-accused, the applicant also deserves to be enlarged on bail.

8) Hence, the following order:-

: O R D E R :

(i) Application stands allowed.

(ii) The applicant be released on bail in CR No.133 of 2023 registered with Versova Police Station, on furnishing a P.R. Bond in the sum of Rs. 30,000/- with one or two sureties in the like amount.

(iii) The applicant shall mark his presence at Varsova Police Station on the first Monday of every alternate month between 11.00 am. to 1.00 pm. till the conclusion of the trial.

(iv) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.

(v) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) 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.

Application stands disposed

[N. J. JAMADAR, J.]