

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO.1672 OF 2023**

Aditya Milind Chaudhary

...Applicant

vs.

The State of Maharashtra

...Respondent

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PAREKAR

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Mr. Vinod Kashid a/w. Mr. Sumit Bhoite, for the Applicant.

Mr. S.R. Agarkar, APP, for the Respondent/State.

Mr. P.D. Yerunkar, PSI, Shreenagar police station.

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

**DATE : APRIL 10, 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. 101 of 2020 registered with Shreenagar police station for the offences punishable under section 302 read with 34 of Indian Penal Code, 1860, seeks to be enlarged on bail.

3. On 7<sup>th</sup> October, 2020 on the road near Gurukrupa Niwas, there was a quarrel between young boys. Chintan (the deceased) attempted to resolve the quarrel. One of the boys made a call to the applicant. He came thereat, after about 10 minutes. The co-accused Nehar Belose also came from Shreeram-Smruti Building. The applicant and the co-accused questioned the deceased as to why the deceased intervened in the quarrel of those boys. The applicant threatened to cut and take away the ear of the deceased. The father

of the deceased tried to intervene. However, the applicant pushed him away and caught hold of the deceased. The co-accused Nehar Belose unleashed blows by means of Scissor like sharp weapon on the waist and back of the deceased. Eventually, the deceased succumbed to the injuries.

4. Mr. Kashid, the learned counsel for the applicant, submitted that the incident had occurred in a sudden fight. The applicant was unarmed. The applicant and the co-accused also sustained injuries in the said occurrence as is evident from the injury certificate (page 76 to 78 of the application). In any event, the applicant had no intention to cause the death of the deceased. Even otherwise, the case falls within exception 4 of section 300 of the Penal Code.

5. In opposition to this, Mr. Agarkar, the learned APP, submitted that the applicant had caught hold of the deceased. Thus the applicant shared the common intention to commit murder of the deceased. It was further submitted that the applicant has antecedents. Apart from the instant crime, four other crimes have been registered against the applicant during 2017 to 2020. Therefore, the applicant does not deserve to be enlarged on bail.

6. The autopsy surgeon opined that the cause of death was haemorrhage and shock due to injury to vital organs caused due to sharp pointed weapon. Autopsy surgeon had noted three stab

injuries over the chest, left side flank and back. There was few abrasions also. Evidently, the cause of death was stab injuries attributable to the assault by the co-accused. The question that would warrant adjudication at the trial would be, whether the applicant shared the common intention to cause death of the deceased or such injury as was sufficient in the ordinary course of nature to cause death.

7. I have perused the statements of the witnesses. The witnesses have consistently stated that the applicant exhorted that he would cut and take away the ear of the deceased. Despite the witnesses imploring the applicant and co-accused to release the deceased, the applicant caught hold of the deceased and reiterated that he would cut the ear of the deceased. These exhortations, prima facie, indicate that the applicant did not share the common intention to cause death or such bodily injury as was sufficient in the ordinary course of nature to cause death of the deceased. It is also imperative to note that the applicant was unarmed. In the circumstances, whether the offence, qua the applicant, would fall within the dragnet of sections 302 or 304 of the Penal Code would be a matter for adjudication at the trial.

8. The applicant has been in custody since 7<sup>th</sup> October, 2020. More than 3 ½ years have elapsed. Having regard to the large

pendency of cases, it is unlikely that the trial can be completed within a reasonable period. Evidently, the applicant has antecedents. However, the antecedents do not appear to be such as to dis-entitle the applicant from release on bail. The apprehension on the part of the prosecution, can be taken care of by imposing conditions.

Hence, the following order.

### **ORDER**

- 1] The application stands allowed.
- 2] The applicant Aditya Milind Chaudhary be released on bail in C.R. No. 101 of 2020 registered with Shreenagar police station, on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.
- 3] The applicant shall mark his presence at Shreenagar police station on the first Monday of every month between 11 am to 1 pm for a period of three years or till conclusion of the trial, whichever is earlier.
- 4] Except for the purpose of attending the police station, the applicant shall not enter the limits of Wagle Estate and Shreenagar police station till the conclusion of the trial.
- 5] The applicant shall not tamper with the prosecution

evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

6] 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.

7] The applicant shall regularly attend the proceedings before the jurisdictional Court.

8] 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 disposed.

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