

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2661 OF 2023

Ramesh @ Zangrya Balu Dornar	...Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. Raju Suryawanshi, for the Applicant.
Ms. Geeta Mulekar, APP, for the Respondent/State.
Mr. Ajinkya Dhonde, Dombivali police station.

CORAM : N. J. JAMADAR, J.
DATE : JANUARY 22, 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. 23 of 2020 registered with Dombivali police station for the offences punishable under sections 302, 326, 323, 504 and 506 read with 34 of Indian Penal Code, 1860 seeks to be enlarged on bail.
3. On 20th January, 2020, there was an altercation between the first informant and his friends, and an auto rickshaw driver over removing the auto rickshaw. After a while the applicant, who owned the auto rickshaw, called the first informant near Trimurti Nagar, Shelar Chowk, Dombivali (E). The applicant and the co-accused No. 2 Chandrakant @ Chandya and No. 1 Ravi Lagade were waiting for the first informant. The applicant allegedly raked up the quarrel with the first informant for abusing the auto rickshaw driver.

4. The first informant further alleged that the applicant and the co-accused started to assault them. Co-accused Chandrakant initially assaulted the first informant by means of chopper. The applicant gave blows by means of chopper on the left cheek of Nilesh Ghune. The co-accused Ravi Lagade assaulted Pratik Gavade (the deceased) by means of chopper on the left cheek and near chest. They all sustained bleeding injuries. Pratik Gavade succumbed to the injuries.

5. The learned counsel for the applicant submitted that the role attributed to the applicant is that of assault to Nilesh Ghune, who had not sustained any grievous injury. Attention of the Court was invited to the injury certificate of the Nilesh Ghune. It indicates that Nilesh Ghune sustained CLW on left side of the face. The learned counsel further submitted that the panchanama of the CCTV footages indicates that the applicant was not at all armed with any weapon. Co-accused Chandrakant @ Chadya was armed with chopper and Ravi Lagade was seen assaulting the first informant and Nilesh Ghune by means of weapons. Moreover, the co-accused Chandrakant has been released on bail by the Court of Session by an order dated 2nd February, 2021. Thus, the applicant also deserves the same dispensation.

6. The learned APP resisted the application for bail. It was

submitted that the applicant had called the first informant and the deceased at the scene of occurrence. At the instance of the applicant, his blood stained clothes were recovered. Two witnesses have specifically named the applicant as one of the assailants who were armed with chopper.

7. I have perused the statements of the first witness as well as Nilesh Ghune and Samir Bhoir. Prima facie it appears that there was a fight between two groups. Evidently, the applicant did not assault the deceased. The role of the assault upon Nilesh Ghune by means of chopper was attributed to the applicant. Nilesh Ghune has not sustained any grievous injury. Moreover, the panchanama of the CCTV footages, relied upon by the prosecution, indicates that the applicant was not armed with any weapon, and allegedly assaulted the members of the informant party by means of fist and kick blows.

8. The applicant has been in custody for four years. The trial is not likely to conclude within a reasonable period. The antecedents of the applicant are not such as to dis-entitle the applicant from the relief of bail, especially having regard to the period of incarceration. I am, thus, inclined to release the applicant on bail.

Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The applicant be released on bail in C.R. No.23 of 2020 registered with Dombivali 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 Dombivali police station on the first Monday of every alternate month in between 11 am to 1 pm till conclusion of the trial.
- 4] 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.
- 5] 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.
- 6] The applicant shall regularly attend the proceedings before the jurisdictional Court.
- 7] 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.)