



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2695 OF 2023**

Rohan Ashok More @ Noddy

... Applicant

versus

The State of Maharashtra

... Respondent

Mr. Amrish R. Salunke, for Applicant.

Mrs. Geeta P. Mulekar, APP for State.

Mr. Atmaram T. Kadam, PSI, Wadala TT Police Station.

CORAM: N.J.JAMADAR, J.

DATE : 15 JANUARY 2024

P.C.

1. Heard the learned Counsel for the parties.

2. By this application, the applicant who is arraigned in C.R.No.640 of 2022 registered with Wadala TT Police Station for an offence punishable under Section 302 read with Section 34 of the Indian Penal Code, seeks to be enlarged on bail.

3. The gravamen of indictment against the applicant is that Tushar, deceased son of the first informant and Kiran Kale, Accused No.1, were on inimical terms. On account of a running feud between them, the deceased was not residing at Pratiksha Nagar. On 24 September 2022 at about 11.00 p.m., while Chirag, brother of the deceased and the deceased were standing in front of their building, accused No.1 Kiran Kale and the applicant came thereat. They raked up quarrel with the deceased.

Accused No.1 Kiran Kale charged on the person of the deceased. Co-accused Sandeep @ Sandy and Vinayak @ Upaya also came thereat. They all started to beat the deceased. Accused No.1 Kiran Kale was allegedly armed with a knife. Accused No.1 Kiran Kale gave blows by means of a knife. The deceased sustained bleeding injuries and succumbed to those injuries.

4. Learned Counsel for the Applicant submitted that the role attributed to the applicant is that of assault by means of fist and kick blows. Co-accused Vinayak @ Upaya who is attributed identical role, has been released on bail by the learned Sessions Judge. Therefore, the applicant also deserves the same dispensation.

5. Learned APP resisted the prayer for bail. It was submitted that the applicant also shared the common intention to commit the murder of the deceased.

6. I have perused the statement of Mr. Chirag, brother of the deceased. It appears that initially altercation was between the accused No.1 Kiran Kale and the deceased. Accused No.1 Kiran Kale charged on the person of the deceased. Chirag undoubtedly alleged that rest of the accused also joined in the assault. However, the role attributed to the rest of the accused is of assault by means of fist and kick blows. The post-mortem report indicates that the cause of death was “shock due to stab injury” on the left side of the chest. Stab and incised wounds noted by the Autopsy Surgeon in Column No.17 of the Post-Mortem report, prima facie, correspond with the role attributed to the accused No.1 Kiran Kale.

7. In the circumstances, prima facie, I do not find any qualitative difference between the role attributed to the Vinayak @ Upaya, who has been released on bail, and that of the applicant.

8. The accused is in custody since 26 September 2022. Investigation is complete. Chargesheet has been lodged. The applicant appears to have roots in society. Apprehension of tampering with the evidence and threatening the witnesses can be taken care of by imposing conditions.

8. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Rohan Ashok More @ Noddy be released on bail in C.R.No.640 of 2022 registered with Wadala TT Police Station on furnishing a PR bond in the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the learned Sessions Judge.

(iii) The applicant shall not enter into the jurisdiction of Wadala TT Police Station, except for marking his presence before the said police station on first Monday of every month in between 11 am to 1 pm till 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 disposed.

(N.J.JAMADAR, J.)