



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2785 OF 2023**

Manish Harish Rathod	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Amrish Salunkhe for Applicant.
Mr. S.R.Aagarkar, APP for State.
Mr. S. Kambli, PSI, Shahunagar Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 19 JANUARY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant who is arraigned in C.R.No.329 of 2022 registered with Shahunagar Police Station for the offences punishable under Sections 302, 324, 323, 504 read with Section of the Indian Penal Code, has preferred this application to enlarge him on bail.
3. Ronit Bhalerao (the deceased), was a friend of Shaikh Ibrahim Dawood, the first informant. On the night intervening 22 October and 23 October 2022 at about 3.00 a.m., an altercation ensued between the deceased and Rupesh Savade – accused No.1 over staring at each other. Accused No.1 Rupesh allegedly took out waist belt and assaulted the deceased. The applicant and co-accused Sagar, who are the friends of accused No.1 Rupesh, allegedly joined Rupesh in assaulting the

deceased. The applicant and the co-accused gave fist and kick blows to the deceased. On account of the assault, the deceased twice fell on the ground. The first informant and his friends tried to save the deceased, yet the accused No.1 Rupesh, the applicant and co-accused Sagar continued to unleash the blows. Eventually, Rohit was shifted to Sion Hospital and was declared dead.

4. Learned Counsel for the applicant submitted that the role attributed to the applicant is that of assault by fist and kick blows. The injuries noted in column No.17 in the post-mortem report do not appear to have been caused by fist and kick blows. The Medical Officer has opined that most of the injuries were possible by belt and buckle with which accused No.1 Rupesh was allegedly armed. Internal injuries i.e. subarachnoid hemorrhage has also been attributed assault by belt. It was further submitted that there was no pre-mediation.

5. Learned APP, on the other hand, submitted that there are statements of witnesses which show that the applicant and co-accused unleashed multiple blows on the deceased. Despite the first informant and his friend making efforts to save the deceased, the applicant and co-accused continued to belabour the deceased. Inviting attention of the Court to column No.20 of the Post-Mortem Report, learned APP submitted that the injuries mentioned therein, were relatable to the fist and kick blows unleashed by the applicant. Therefore, the applicant does not deserve to be released on bail.

6. From the perusal of the allegations in the FIR and the statements of the eye witnesses, it becomes evident that the initial altercation was between the deceased and accused No.1 Rupesh. After the fight had ensued, accused No.1 Rupesh had taken out waist belt and unleashed multiple blows on the person of the deceased. Thereafter, the applicant and the co-accused came thereat and joined in the scuffle. It is specifically alleged that the applicant and co-accused gave fist and kick blows to the deceased. The opinion of the Medical Officer (page 122 of the application) indicates that the internal injuries mentioned in column No.19 i.e. subarachnoid hemorrhage is, prima facie, attributable to assault by accused No.1 Rupesh by means of belt. Likewise, injuries 2, 3, 6, 7, 8, 9 and 10 are attributable to assault by means of belt or buckle.

7. In the aforesaid view of the matter, the question as to whether the applicant also shared common intention to commit murder of the deceased would be a matter for trial. The applicant is a young and has been in custody since 24 October 2022. It is unlikely that the trial can be completed within a reasonable period. The applicant appears to have roots in society.

8. In the circumstances, I am inclined to release the applicant on bail.

9. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Manish Harish Rathod be released on bail in C.R.No.329 of 2022 registered with Shahunagar 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 trial Court.

(iii) The applicant shall mark his presence before Shahunagar Police Station on first Monday of every month in between 11 am to 1 pm for a period of two years or 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 disposed.

(N.J.JAMADAR, J.)