

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

BAIL APPLICATION NO. 27 OF 2024

Nikhil Suresh Mane ... Applicant
Versus
The State of Maharashtra ... Respondent

Ms. Jyotsna Kamble for the Applicant.
Ms. Rutuja Ambekar, APP for Respondent-State.

**CORAM: MANISH PITALE, J.
DATE : 24th JUNE 2024**

P.C. :

. Heard learned counsel for the applicant and learned APP for respondent-State.

2. In the present case, according to the prosecution, an incident occurred wherein the applicant along with other co-accused persons is alleged to have assaulted the deceased, as also the informant and another person, at the time of the incident. A perusal of the statement of the informant, leading to the registration of FIR, shows that specific role is attributed to the applicant along with accused No.1 of having assaulted the deceased with iron rod on his head. The applicant along with other co-accused persons was arrested and he has remained behind bars since 2020.

3. The learned counsel for the applicant has made the following submissions :

- (a) that the material on record does not attribute any specific role to the applicant, which would connect him to the cause of death of the deceased.
- (b) that there is no recovery of the iron road from the applicant and the recovery is from accused No.1.
- (c) that the informant himself did not know the names of the accused persons, including the applicant before this Court and he named them only on the say of his brother-in-law.
- (d) that there are no blood stains found on the clothes of the applicant.
- (e) that the applicant seeks parity as three co-accused persons have been already enlarged on bail.

4. The learned APP has opposed the aforesaid submissions by inviting attention of this Court to the statement leading to the registration of the FIR, as also the statement of the informant and another eyewitness i.e. brother-in-law of the informant recorded during the course of the investigation. Attention of this Court is also invited to the postmortem report showing the nature of injury on the head and the cause of death. It is submitted that the

applicant cannot claim parity for the reason that bail has been granted to only those co-accused persons, whose alleged role is distinguishable from that of the applicant. It is brought to the notice of this Court that accused No.1 is still behind bars.

5. This Court has considered the rival submissions. The statement leading to the registration of the FIR describes the incident in detail, specifically attributing role to the applicant of having assaulted the deceased by means of an iron rod on his head. A perusal of the postmortem report shows that there were head injuries suffered by the deceased, including a large clot of blood in the mid occipital region. The reason as to the cause or probable cause of death is shock due to subdural hematoma due to head injury.

6. The statement of the informant and that of the other eyewitness i.e. the brother-in-law of the informant are both consistent, as regards the specific role attributed to the applicant and as to the nature of assault inflicted upon the victim. Additionally, the statement of an auto-rickshaw driver is also on record, who has stated about the very same incident and he has further stated that he was the one who took the injured persons to the hospital. Although, the said person does not name the applicant, he has certainly given the details as to the manner in which assault took place. The injury certificate on record shows that the informant himself had suffered injuries.

7. In the light of the material available on record, this Court is not impressed with the above quoted submissions made on behalf of the applicant. The submission that the informant himself did not know the names of the accused persons, including the applicant, cannot take the case of the applicant any further, simply for the reason that the statement of the other eyewitness i.e. brother-in-law of the applicant is on record, who indeed knew the accused persons and he has also named the applicant and attributed specific role to him.

8. As regards non recovery of iron rod and absence of blood stains on the clothes of the applicant, this factor can also not inure in favour of the applicant to show any *prima facie* case in his favour, for the reason that the incident has been described in detail by the eyewitness and the injuries suffered by the deceased and the informant are supported by medical evidence on record.

9. On the aspect of the parity the applicant has failed to make out its case, simply for the reason that the co-accused persons were granted bail on the ground that even the informant and the other eyewitness did not specifically ascribe role to them for causing injuries by means of weapons which were eventually in the medical records found to be responsible for such injuries. In fact, in one of the orders granting bail to the co-accused persons, the Sessions Court had noted the fact that the applicant and the

accused No.1 were the persons who were alleged to have used iron rod to hit on the head of the deceased victim.

10. In view of the above, this Court finds no substance in the present application and it is accordingly dismissed.

11. This Court is informed that the trial Court had fixed the matter for framing charge on 21st June 2024, indicating that the charge is yet to be framed. Hence, the trial Court is directed to frame the charge within a period of four weeks from today, if not already framed, and then to proceed as expeditiously as possible for completion of the trial.

MANISH PITALE, J.