

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1252 OF 2024

Himal Meghraj Singh @ Nepali

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. J.P. Mishra, Advocate for the Applicant.

Smt. Rajeshree Newton, APP for the Respondent – State.

PSI – Shri R.S. Kamble, Dadar Police Station, present.

CORAM : N. J. JAMADAR, J.

DATE : 24th JULY 2024.

PC.:

1. Heard learned counsel for the Applicant and the learned APP for State.
2. The applicant, who is arraigned in Sessions Case No.600 of 2022 arising out of C.R. No.130 of 2022 registered with Dadar Railway Police Station, Mumbai, for the offences punishable under Sections 120-B, 302, 324 and 201 read with 34 and Sections 141, 143, 144, 147, 148 and 149 of the Indian Penal Code, 1860 and Sections 4 read with Section 25 of the Indian Arms Act, 1959, has preferred this application to enlarge him on bail.
3. The indictment against the applicant and co-accused is that three days prior to the occurrence, Siddharth Sudhir Nikam alias Siddhu (the deceased) had abused the wife of Sundar Ravnesh Naidu (A1). Thus, Sundar Naidu (A1) had a grudge against the deceased. The prosecution alleges, Sundar Naidu (A1), Vishal

Chawariya alias Chota Vishal (A2), Himal Singh alias Nepali (A3), the applicant herein, Vishal Kakade alias Danny (A4), Ganesh Aavlallu alias Mama (A5) and Kalpesh Dongre (A7) in prosecution of the common object of the unlawful assembly, on the night intervening 23rd and 24th February, 2022, committed rioting, accosted the deceased and assaulted him by means of knife, bamboo stick, cement block, tiles and broken beer bottle and thereby committed murder of the deceased.

4. At the outset, Mr. Mishra, the learned counsel for the Applicant submits that the Applicant is entitled to bail on the ground of parity as the co-accused Vishal Chawariya alias Chota Vishal (A2) is released on bail by this Court vide order dated 2nd July 2024, passed in Bail Application No.706 of 2024.

5. While releasing Vishal Chawariya alias Chota Vishal, this Court has observed, *inter-alia*, as under:-

- “5. I have perused the statements of the abovenamed witnesses and the panchnama of CCTV footage. Since Rajesh Paswan is an injured witness, the statement of Rajesh Paswan merits careful consideration.
6. Rajesh Paswan informed that on 24th February, 2022 between 1 to 1.30 a.m. he felt a heavy blow on his head. He had sustained a bleeding injury. Sundar (A1) was standing thereat, alongwith a broken beer bottle. Vishal (A4), Ganesh (A5), Himal Singh alias Nepali (A3) were also present. They all had encircled the deceased. He got scared, went away and concealed his presence below the bridge. Rajesh Paswan further informed that Vishal (A4), Ganesh (A5) and Sundar (A1) were assaulting the deceased. They dragged the deceased towards the railway tracks. At that time, the applicant had allegedly kept a watch to see that nobody was around. It is imperative to note that Rajesh Paswan has categorically stated that Vishal (A4) was assaulting the deceased by means of a bamboo stick, Ganesh (A4) by means of stone and Sundar (A1) was armed with a knife and the latter assaulted the deceased by

means of the said knife.

7. The statement of Selvakumar Raju Pillai prima facie does not advance the cause of the prosecution to show that the applicant was either a member of the unlawful assembly or participated in the assault on the deceased. I find substance in the submission of Mr. Tiwari that the said witness has hazarded a guess that the deceased might have been killed by the named persons including the applicant.
8. The panchnama of CCTV footage indicates that after the occurrence, five assailants were seen proceeding away on two motorcycles. However, the images were not clear.”

6. Prima facie, the role attributed to the Applicant appears to be, by and large, similar to that the co-accused Vishal Chawariya alias Chota Vishal (A-2).

7. The learned APP fairly submitted that it would be difficult to draw a distinction between the role attributed to the Applicant and Vishal Chawariya alias Chota Vishal (A-2), co-accused, who is released on bail.

8. For the reasons which weighed with this Court in releasing Vishal alias Chota Vishal (A-2) on bail and as principle of parity clearly applies, I am inclined to extend the same dispensation to the Applicant. Hence, the following order:-

: ORDER :

- (i) Application stands allowed.
- (ii) The applicant be released on bail in Sessions Case No.600 of 2022 arising out of C.R. No.130 of 2022 registered with Dadar Railway Police Station, Mumbai, on furnishing a P.R. Bond of Rs.50,000/- with one or two sureties in the like amount.
- (iii) The applicant shall mark his presence at Dadar Railway Police Station on the first Monday of every alternate month between 10.00

a.m. to 12.00 noon for the period of two years or till conclusion of the trial, whichever is earlier.

- (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 co-accused and the trial Court shall not be influenced by any of the observations made hereinabove.
- (viii) Application stands disposed.

(N. J. JAMADAR, J.)