

HARSHADA H. SAWANT  
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO.5272 OF 2024**

Rahul Sadram Kamble .. Applicant  
**Versus**  
The State of Maharashtra .. Respondent

- .....
- Mr. C. J. Joveson, Advocate for Applicant.
  - Ms. Rajeshree V. Newton, APP for Respondent – the State of Maharashtra.
  - Mr. Subhash Pansare, API, Kolsewadi Police Station (9594943862).
- .....

**CORAM : MILIND N. JADHAV, J.**

**DATE : JANUARY 27, 2025**

**P.C.:**

**1.** Heard Mr. Joveson, learned Advocate for Applicant and Ms. Newton, learned APP for Respondent – the State of Maharashtra.

**2.** This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') seeking Bail in connection with First Information Report No.184 of 2021 (for short '**FIR**') registered with Kolsewadi Police Station for offences punishable under Sections 302, 307 read with Section 34 of the Indian Penal Code, 1860 (for short '**IPC**').

**3.** Applicant has been incarcerated since 25.04.2021. The date of incident is the intervening night of 24.04.2021 and 25.04.2021. According to prosecution deceased Raja Mukesh Parashar residing at Ganeshnagar, Kalyan (East) was assaulted by Applicant and his two

friends namely Sandip Nandu Rathod and Nagesh alias Nagya Maruti Dalvi. All three are Accused in the crime.

**4.** Accused No.1 – Rahul Sadram Kamble is before me. Accused No.2 – Sandip Nandu Rathod and Accused No.3 – Nagesh alias Nagya Maruti Dalvi have been enlarged on bail. According to prosecution case, the three Accused had an altercation with deceased victim – Raja Mukesh Parashar and initially rained fist and kick blows and Applicant inflicted blow with a wooden plank on the head of victim – deceased. Victim was injured and taken for treatment initially to Rukminibai Hospital, Kalyan, then to Chattrapati Shivaji Hospital, Kalwa, Thane and from there for further treatment to Sion Hospital, Mumbai. Victim succumbed to his injuries two days later. Initially, offence was registered under Section 307 of IPC and later on offence under Section 302 of IPC came to be added.

**5.** Prosecution is heavily relying upon eye witness statements which are appended at page Nos.58 and 59. On page No.58, Mayur Sanjay Wagh has stated that he was present when the scuffle between Applicant and his friends on the one hand and deceased victim Raja Mukesh Parashar began at the incident spot. He has stated that he was present on the incident spot alongwith another friend of his called Samrat Shinde. Ironically statement of Samrat Shinde has not been recorded by the Investigating Officer.

**6.** The said Mayur Sanjay Wagh has stated that Applicant alongwith two friends namely Accused Nos.2 and 3 approached them and there was a verbal altercation between them and Raja Mukesh Parashar pursuant to which they started inflicting kick and fist blows on victim and Applicant inflicted one blow with the wooden plank which he was carrying in his hand. This particular eye witness states that when the aforesaid incident happened he ran away from the incident spot and returned after ten to fifteen minutes to find victim lying injured on the ground. He then with his friend Samrat Shinde moved the victim to hospital for treatment after informing the local police chowki about the incident.

**7.** The second statement of witness of prosecution relied upon is of Arun Hari Patil. That statement is appended at page No.59 of the Application. He has stated that on the date and time of incident, he was standing on his terrace in a nearby building and he could visibly identify the three Accused and victim who were all known residents of the same area. He has stated that he saw them arguing on the road for sometime after which a scuffle broke out between them and victim was initially rained with fist and kick blows and Applicant thereafter inflicted a blow with a wooden plank on the head of victim. This statement does not state about the presence of the two friends of the victim namely Mayur Sanjay Wagh and Samrat Shinde. However, in this statement the said Arun Hari Patil states that victim always used to

hang out with his friends Mayur Sanjay Wagh and Samrat Shinde but in so far occurrence of the incident is concerned, he is stoically silent about their presence at the incident spot on that date and time when the incident occurred. It is seen that statement of Arun Hari Patil is recorded on 25.04.2021 whereas the statement of Mayur Sanjay Wagh is recorded on 28.04.2021 and there is a clear dichotomy which exists in the statement of both the eye witnesses which would entitle the Applicant to plead for bail.

**8.** That apart, the reason for which the incident occurred has a precursor incident which is found in the Memorandum Panchnama of the Applicant wherein he states that immediately prior to the happening of the incident the victim Raja Mukesh Parashar visited his *kanda-batata* shop and picked up a quarrel with him and his friends due to which they were incensed and wanted to teach the victim a lesson. *Prima facie*, it is seen that Applicant had no intention to kill the deceased. Also there is a clear variance in the statement of the two eye witnesses which is clearly evident as stated hereinabove.

**9.** Ms. Newton has vehemently objected stating that there are three antecedents of Applicant and they should be considered by the Court. Undoubtedly if the Applicant is granted bail, there will be appropriate conditions which can take care of the apprehension expressed by learned APP for Respondent – the State of Maharashtra.

In view of the dichotomy in the statement recorded of the two eye witnesses on which the prosecution case is relied upon, I am inclined to enlarge the Applicant on bail subject on the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.20,000/- with one or two sureties in the like amount;
- (ii) Applicant shall report to the Investigating Officer of concerned Police Station once every month on the third Saturday between 10:00 a.m. to 12:00 p.m. for the first three months and thereafter or as and when called;
- (iii) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (iv) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;
- (v) Applicant shall keep the Investigating Officer

informed of his current address and mobile contact number and / or charge of residence or mobile details, if any, from time to time;

(vi) Any infraction of the above conditions shall entail the prosecution to seek cancellation of this order.

**10.** The aforesaid observations are *prima facie* on the basis of record of the case which has been argued before me and is an expression of opinion by this Court only for the purpose of enlargement of Applicant on bail and shall not influence the trial in the present case.

**11.** Bail Application stands allowed and disposed.

H. H. SAWANT

[ MILIND N. JADHAV, J. ]

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