



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 4269 OF 2021

Sudhir Rajaram Kamthe	..Applicant
V/s.	
The State of Maharashtra	..Respondent

Ms. Sana R. Khan, for the Applicant.
Mr. A. R. Kapadnis, APP for the Respondent/State.

CORAM : C.V. BHADANG, J.
DATE : 12 APRIL 2022

P.C.

1. By this Application, the Applicant (Accused No.4) is seeking release on bail in Crime No.1808/2020 of Police Station Sinhgad Road, under Section 302, 120-B and 201 r/w. 34 of IPC and Section 4/25 of the Arms Act and Section 37/1 r/w. 135 of the Maharashtra Police Act.

2. The aforesaid crime is registered on the basis of the complaint dated 12 June 2020 lodged by Dattatray Maruti Chavan. The informant was knowing the deceased Sunil Langore. Sunil Langore was an electrician working in Nareh and Dhayari area at Pune. The deceased had started an Hotel by

name Swaraj Restaurant at Siddhi Vinayak Kranti Park, Shiv Ambai Devi Road near Shankar Maharaj Math, Pune. The informant claims that on 12 June 2020, at about 5.55 p.m. when he alongwith his friend Rahul Patole were passing in front of Swaraj Restaurant, he noticed that a crowd had gathered near Swaraj Restaurant and on inquiry, he found that Sunil Langore was lying in an injured condition in a pool of blood, in a shed, in front of Swaraj Restaurant. Accordingly, the informant reported the matter to the police, upon which, the crime was registered and investigation was started. During investigation, the Applicant and the co-accused came to be arrested. It may be mentioned that the Applicant was arrested on 16 June 2020 and after investigation, a chargesheet is filed.

3. The learned Sessions Judge has thrice refused to release the Applicant on bail.

4. I have heard the learned counsel for the parties. Perused record.

5. It appears that the case is based on circumstantial evidence as there is no eye witness account of the incident in which the deceased was assaulted and done to death. During the course of investigation, the Investigating Officer had recovered three CCTV footages including a footage dated 13 June 2020, from

Vrindavan Chandra Society, which is in front of the Swaraj Restaurant near which the incident had happened.

6. The panchanama dated 13 June 2020 about recovery of the CCTV footage shows that three persons were seen assaulting the deceased from 17.07.18 hours to 17.12.32 hours. This is the only CCTV footage which is recovered prior to the arrest of the Applicant. The other two CCTV footages are recovered on 22 June 2020 and 25 June 2020 and they are subsequent to the arrest. The CCTV footage recorded on 22 June 2020 is from Mahesh Packing Company, wherein the Applicant and the co-accused Akash Damgude are seen proceeding by Activa vehicle while the co-accused Santosh Nakti and Ganesh Ghavare are seen proceeding by Honda Passion vehicle. This according to the prosecution is CCTV footage when the Applicant and the co-accused were fleeing after commission of the offence. The third CCTV footage recorded on 25 June 2020 of Nareh Gram Panchayat when the Applicant Sudhir and the other co-accused are stated to be seen while going to the spot of incident on two wheelers.

7. A specific query was made to the learned APP whether any of the CCTV footages were shown to any of the prosecution witness and whether the identity of the persons in the CCTV footage is established. Learned APP submitted that there is no such evidence. In fact, according to the prosecution, the CCTV

footage recorded on 13 June 2020 shows three persons assaulting the deceased in the shed near Swaraj Restaurant. However, the said CCTV footage is not shown to any of the witnesses, establishing the identity of the assailants. Admittedly, there is no Test Identification Parade (TIP) conducted in this case. One of the co-accused Santosh Nakti (Accused No.2) has been released on by the learned Sessions Judge on bail.

8. The learned counsel for the Applicant submitted that the case of the Applicant is on similar footing as that of Santosh Nakti in as much as there is recovery of the clothes allegedly having blood stains from the Applicant as well as Santosh Nakti. She therefore claims that parity would apply.

9. I have also gone through the statements of Ankush Polekar, Tushar Bankar, Yogesh Khatpe and Rajesh Khatpe who have been referred to by the learned APP. All these statements are recorded after the arrest of the Applicant and prima facie cannot show complicity of the Applicant.

10. The investigation is complete and the chargesheet is filed.

11. In the result, the following order is passed.

ORDER

(i) The Criminal Bail Application is allowed.

(ii) The Applicant Sudhir Rajaram Kamthe, be released on bail in Crime No.1808/2020 of Police Station Sinhgad Road, Pune City, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.

(iii) The Applicant shall undertake to remain present before the learned Sessions Judge during the course of trial, unless exempted.

(iv) The Applicant shall report to the concerned Police Station once in a month on first Monday till framing of charge.

(v) The Applicant shall not tamper with the prosecution evidence / witnesses.

(vi) It is made clear that the observations made herein are *prima facie* in nature, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

(C.V. BHADANG, J.)