

Date of institution	12.02.2021
Date of decision	18.02.2021

**IN THE CITY CIVIL AND SESSIONS COURT
CRIMINAL MISC. APPLICATION NO.1163 OF 2021
IN**

FIR NO.	PART A-C.R.No.111910 13202719/2020
Police Station	Krushnanagar Police Station
Offences	Under Sections 326, 294B, 506(2) and 114 of the Indian Penal Code.

Applicant :

Name	Amit @ Ialu S/o Visandas Ratnani
Age	20
Occupation	Not mentioned.
Address	D/7, First Floor, Apnagar Society, Naroda Patiya, Naroda Road, Ahmedabad. (Presently in judicial custody)

V/s.

Respondent:

State of Gujarat

Appearance (Learned Advocates):

For Applicant	Mr. H. H. Dave.
For State	Learned Public Prosecutor.

FINAL ORDER ON EXHIBIT ONE

1. The present bail application has been filed under Section 439 of the Code of Criminal Procedure (for short "**the Code**") on behalf of applicant-accused for regular bail in the above-mentioned FIR under the above-mentioned sections.
2. The prosecution case as set-out by the complainant in the F.I.R is that on 10/12/2020, the complainant was going towards Krishnanagar Vidhyavihar School, besides Umiya Pan Parlor at 11:30

AM and when he reached near the road in open ground, he saw that three persons were beating his friend Dhruvrajsinh Popatsinh Bhati, out of those three persons, one Nishu Shah who also happened to be a friend of complainant was having wooden-stick in his hand, whereas Ruchil was carrying knife and father of Nishu Shah was also carrying wooden-stick. All three of them were beating Dhruvrajsinh, on this the complainant called his friends Luckyrajsinh and Jayrajsinh and tried to rescue Dhruvrajsinh from clutches of Nishu Shah etc. But said Nishu Shah threatened complainant and persons accompanying him with dire consequences of life. Thereafter they kept on causing injury to Dhruvrajsinh and fled-away from spot, father of Dhruvrajsinh also telephonic informed father of the deceased who called 108 Ambulance and took Dhruvrajsinh to the hospital. The complainant also averred in the FIR that cause of occurrence will be disclosed by Dhruvrajsinh once he regains his consciousness, however during the course of treatment Dhruvrajsinh expired and FIR was lodged under the aforementioned sections.

3. Perused the application, affidavit filed in response of the application as well as police papers.
4. Learned Advocate for the applicant-accused has contended that, the applicant-accused is not named in the FIR. Apart from that no overt-act has been attributed to him. He has further argued that, there is

a delay of 3 hours in filing of FIR which has not been explained. It has also been submitted that cross FIR was also registered against complainant party of the present case. In these circumstances it has been prayed that applicant-accused is of very young age as such, he may be released on bail.

5. On the contrary, learned APP for the State has contended that the name of the applicant-accused appeared in the further statements of the complainant under Section 161 of the Code on 13/12/2020 and 15/12/2020. He has also submitted that a video was made during the occurrence and same got viral on the social media and later investigating agency has collected that video. It transpires that the applicant-accused was not only present on the spot on the date of occurrence but he had also caused injuries to the deceased. He also submitted that, there were as many as 18 injuries caused to the deceased by the applicant-accused. In these circumstances, he has prayed for rejection of the present bail application.
6. I have heard both the learned Advocates and perused the case file very carefully.
7. At the very outset, perusal of FIR and further statements dated 13/12/2020 and 15/12/2020 of the complainant recorded under Section 161 of the Code, reveals that name of the present applicant-accused found mention in those statements. Hence it is not only the confessional statement of his co-accused wherein his name has

been reflected. Apart from that compact disc of alleged viral video is also with the police papers. As per statements on dated 13/12/2020 and 15/12/2020 made by the complainant, specific role has been attributed to the present applicant-accused. No doubt, truth and veracity of the statement has to be checked at the time of trial but *prima-facie*, this Court cannot lose sight of these statements especially in an offence like murder. At this stage, this Court refrains from commenting anything upon the nature of these 2 statements. So far the young age of applicant-accused is concerned, it is worthwhile to mention here that deceased was also young boy of 17 years age, in these circumstances present application is bereft of any merits. Hence, following order ensues:

ORDER

- (1) The present Criminal Miscellaneous Application is hereby rejected.
- (2) No order as to costs.

Pronounced in the open Court today on this **18th** day of **February, 2021.**

Date : 18/02/2021
Place : Ahmedabad

Ankit

(SACHIN S.C. SETHI)
Additional Sessions Court,
Court No.22
City Civil-Sessions Court,
Ahmedabad
CODE No.GJ-01540