

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.387 OF 2015

Amol Shahaji Bhalke & Ors.	... Applicants
Vs.	
The State of Maharashtra	... Respondent

a/w

BAIL APPLICATION NO.388 OF 2015

Subhash Kalyan Bhalke & Ors.	... Applicants
Vs.	
The State of Maharashtra	... Respondent

CRIMINAL APPLICATION NO.289 OF 2015
IN
BAIL APPLICATION NO.388 OF 2015

Mahesh Dinkar Patil	.. Intervener
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IN THE MATTER BETWEEN

Subhash Kalyan Bhalke & Ors.	... Applicants
Vs.	
The State of Maharashtra	... Respondent

Mr.R.B. Raghuvarshi i/b Ratnesh Dube for the Applicants in both BAs
Mr.Arfa Sait, APP, for Respondent – State
Mr.Ritesh Thobde for Intervener in APPP/289/2015

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MARCH 25, 2015**

P.C.:

1. As the two bail applications pertain to the same C.R., they are decided by this common order. One Mahesh Dinkar Patil has given

information to the police at Pangari police station at Solapur in the morning of 21.10.2014 at about 8.30am, that when he was standing in front of the office of one Vikas Society office in the village Gadegaon, Barshi, accused No.1 Kiran Bhalke, questioned him as to why he was standing in that place owned by him. There was verbal altercation between them. At that time, the applicants/accused and the co-accused gathered there and Kiran Bhalke asked the co-accused and the applicants to bring sticks. Kiran Bhalke assaulted the complainant and the applicants/accused and the other accused arrived there with swords and sticks. At that time, Kiran took out a sword and assaulted on the head of Mahesh. One elderly and respected person, namely, Mr.Musa Mulani, intervened and tried to intervene and at that time Kiran mounted assault of sword on the head of Musa due to which he got injured and collapsed. Thereafter, the applicants/accused and the other accused assaulted the complainant and his associates. Thus, four persons got injured. They were shifted to the hospital. Musa succumbed to the injuries 5 days thereafter i.e., on 25.10.2014. Pursuant to this FIR, the offence was registered at C.R. No.119 of 2014 at Pangri police station, Solapur. The applicants/accused were arrested on 22.10.2014 and since then, they are inside. Hence, this application.

2. Mr.Raghuwanshi, the learned Senior Counsel for the applicants/accused, submitted that though the witnesses and the

informant had stated about the presence of the applicants, no specific role of assault is attributed to them. It was a sudden fight. He submitted that there is a cross complaint by Santosh Baban Bhalke against the complainant and his associates which is registered at C.R. No.120 of 2014 at Pagri police station on the same day wherein the complainant and his associates are prosecuted for the offences under sections 324, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code. The learned Counsel further submitted that Kiran Bhalke appears to be the main culprit and the aggressor, who caused the fatal head injury to the deceased. However, this Court by its order dated 23.12.2014 has granted pre-arrest bail. He further submitted that the contents in the FIR of Mahesh Patil and the contents in the statement of the eye witnesses are inconsistent and a different story is given.

3. The learned Prosecutor opposes the application. He submitted that one person, who is a respectable person from the village, is assaulted and died. Three persons were injured. He submitted that it is a case under sections 302, 324, 143, 147 and 149 of the Indian Penal Code. As per the case of the prosecution witnesses, the applicants/accused were present and they were armed with the weapon and they also participated in the assault. Hence, their applications are to be rejected.

4. Mr.Thobde, the learned Counsel for the Intervener, opposes the applications for bail and submitted that Subhash, the accused No.10, has criminal antecedents as one case under sections 323 and 388 of the Indian Penal Code is registered against him.

5. It appears from the record that there was a sudden fight between the 2 groups. The injuries were caused to the persons from both the groups. There are cross cases. The presence of the applicants/accused, as per the statement of the witnesses, prima facie, is seen. However, though there is a general statement that they participated in the assault, there is no specific mention of assaulting any particular person, like Kiran Bhalke, who is specifically attributed the role of inflicting a blow on the head of the deceased Musa. The applicants/accused are in the prison since 22.10.2014.

6. Considering this, bail application are allowed with the following conditions:

- i) The applicants/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.25,000/- each, with one or two solvent sureties in the like amount;
- ii) The applicants shall not tamper with the evidence;

iii) The applicants shall not indulge into any kind of offence, while on bail;

iv) In the event of change of residence, the applicants/accused shall communicate the same to the concerned local police station;

v) The applicants/accused shall attend on all the Court dates.

vi) In the event of breach of either of the conditions imposed hereinabove, the bail granted herein shall be cancelled forthwith.

6. Bail applications are disposed of in the above terms.

7. In view of the disposal of the bail applications, Intervention application also stands disposed of.

(MRS.MRIDULA BHATKAR, J.)