

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 809 OF 2015**

Sidharth Shantappa Metri

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Kedar J. Patil for the Applicant

Ms. Veera Shinde, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 7TH OCTOBER, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 26 of 2014 registered with the Shivaji Nagar Police Station, Ichalkaranji, Kolhapur, for the alleged offences punishable under Sections 302, 341, 120(B) r/w 34 of the Indian Penal Code and under Section 135 of the Bombay Police Act.

3. According to the prosecution, the accused No. 1 Vishwanath Itagi was working as an employee in the Spinning Mill of the deceased

Sanjay Patil. It is alleged that the accused No. 1 Vishwanath had taken a loan of Rs. 40,000/- from the said Sanjay Patil. It appears that thereafter, accused No. 1 left the job and started working elsewhere. According to the prosecution on 24th February, 2014, accused No. 1 Vishwanath called the complainant and took Sanjay Patil's mobile number from him. Accordingly, accused No.1 came to the Spinning Mills and requested Sanjay Patil (deceased) to accompany him and meet his new boss, who would return the loan amount on his behalf to Sanjay Patil. According to the prosecution, Sanjay Patil went with accused No. 1 and was thereafter assaulted by accused No. 1 and others. As soon as, the complainant received news of his Uncle-Sanjay Patil, lying near the Durga Mata Mandir, he went there and found his Uncle-Sanjay Patil lying in a pool of blood. Accordingly, a complaint was lodged as against Vishwanath and others.

4. Learned Counsel for the applicant submits that although there are two eye-witnesses in the said case i.e. Vijay Patil and Vijay Kalagate, Vijay Patil has not disclosed the name of the present applicant. He states that the name of the present applicant has been disclosed for the first time

by Vijay Kalagate. He submits that despite the fact that both the eye-witnesses were present on the spot, when the complainant reached, followed by the police, the said information was not disclosed by the eye-witnesses to the complainant. He submits that in view of the conduct of the eye-witnesses, it is doubtful whether the applicant was present on the spot at the relevant time. He further submitted that there is no recovery of any weapon at the instance of the applicant, however, there is recovery of a bloodstained van.

5. Learned A.P.P opposes the bail application. She submits that charge is framed. She further submits that in the test identification parade which was held, four witnesses have identified the present applicant, as being one of the assailants who assaulted the deceased Sanjay Patil.

6. Perused the charge-sheet. The deceased has been brutally assaulted. *Prima facie*, there are eye-witnesses, who have disclosed the name of the applicant and who have identified the applicant. Regarding the submission, that the eye-witnesses had not disclosed the names to the complainant and police, immediately and hence, they are not reliable

witnesses, the same is a matter of appreciation of evidence, which will be considered at the trial, after recording of evidence. Considering the material on record, at this stage, this is not a fit case to enlarge the applicant on bail. Accordingly, the application stands rejected.

7. It is made clear, that the observations are *prima facie* for the purpose of deciding this application. The learned Judge shall decide the case on its own merits, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.

CERTIFICATE

Certified to be true and correct copy of the original signed
order.
