

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO.832 OF 2015**

Santosh Dattatray Jamune

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Niteen Pradhan i/b Ms.S.D. Khot for the Applicant  
Mr.S.S. Pednekar APP, for Respondent – State

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

DATE: **AUGUST 4, 2015**

**P.C.:**

1. The application is moved for regular bail under section 439 of the Criminal Procedure Code. The applicant/accused is prosecuted for the offences punishable under sections 302, 120B r/w 34 of the Indian Penal Code and also under sections 27, 25(1)(3) of the Arms Act. It is the case of the prosecution that one Sachin Ashok Bandivadekar, the son of the deceased Ashok Bandivadekar, gave information to the police that his family and cousin one Dr.Prakash Bandivadekar have rivalry due to their agricultural profession. Co-accused Dr.Prakash Bandivadekar was convicted for murder and is undergoing life imprisonment. It is the case of the prosecution that on 20.4.2012, his father, who was in the salon for shaving, two persons arrived there in the salon and he was shot dead. It is the case of the prosecution that the co-accused Prakash and other

accused persons hatched conspiracy to eliminate Ashok Bandivadekar. Accordingly on 20.4.2012 at about 1215 hrs, the persons who were hired by Prakash killed his father. The applicant/accused Santosh Jamune was arrested on the next day i.e., 21.4.2014. Hence, this application for bail.

2. The learned Counsel for the applicant/accused has submitted that there is no sufficient evidence against the applicant/accused. He submitted that the incident of firing was witnessed by the hair cutting salon owner and also one other barber. These persons are eye witnesses. He further submitted that the Vishwanath G. Wadkar at the relevant time was shaving the deceased. Ashok Suryawanshi is another witness, who has seen the firing. One Balesh was the driver of the deceased who chased the three accused persons. Out of which two had fired and one was waiting outside on a motor cycle and he drove the other two assailants to flee from the spot. He submitted that in the test identification parade which was conducted on 29.5.2012, only one witness i.e., Balesh identified the applicant / accused Santosh Jamune. However, no specific role is attributed to him. He submitted that there is no recovery of any article or weapon from the applicant/accused. He further submitted that the co-accused including Prakash, Ashok Gavde were released on bail by this Court.

3. Learned Prosecutor opposed the application. He submitted that the three persons are eye witnesses to the incident of murder. There was previous rivalry between the family of the complainant and the family of the accused. He further relied on the statements of the eye witnesses and on the test identification parade. The learned Prosecutor also pointed that one case is pending against the applicant/accused under sections 324, 506 r/w section 34 of the Indian Penal Code of the year 2008.

4. Perused the FIR, the statements of the eye witnesses, memo of test identification parade and other documents which are pointed out by the learned Counsel for both the sides. The two persons, who were in the salon, i.e., one Vishwanath Wadkar, who was shaving at the relevant time and Ashok Suryawanshi, who was working in the salon, both had actually seen the murder. Out of them, Vishwanath Wadkar was not called for test identification parade. Ashok Suryawanshi, who was called, did not identify either of the accused persons. However, Balesh Aundkar, who was the driver of the deceased, had identified all the accused including the present applicant/accused Santosh Jamune. However, no role is attributed to the applicant/accused at the time of identification by Balesh Aundkar. It is expected in the test identification parade that the witness should give reason for identification and mere identification is not sufficient. Besides this, no evidence is seen against the applicant/accused. There is no recovery as well.

5. Under such circumstances, I am inclined to grant bail. Accordingly, the bail application is allowed on the following conditions:

- i) The applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty thousand only), with one surety in the like amount;
- ii) The applicant shall not tamper with the evidence;
- iii) The applicant shall not indulge into any kind of offence while on bail;
- iv) The applicant shall not jump bail and shall attend on all the Court dates.
- v) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for forthwith cancellation of the bail.

**(MRS.MRIDULA BHATKAR, J.)**