

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 145 OF 2015
WITH
CRIMINAL APPLICATION NO. 132 OF 2015

Runja Laxman Lokhande	... Applicant
Vs.	
The State of Maharashtra	... Respondent
And	
Kantilal Shantilal Chopda	... Intervener

Mr. A.P. Mundargi, Senior Advocate i/b. Ms. Smita R. Gaidhani for the applicant

Mr. D.P. Adsule , APP for the respondent/State.

Mr. Shirish Gupte, Senior Advocate i/b. Mrs. Mallika A. Ingale for the intervener.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JULY 6, 2015**

P.C.:

Criminal Application No. 132 of 2015 filed for intervention is allowed.

2. Criminal Application No. 145 of 2015 is moved for bail by the applicant/accused, who is facing charges under section 307 of the Indian Penal Code and under section 3,25 of the Arms Act in C.R. No. I-304 of 2014 registered with Sarkarwada Police Station, Dist. Nashik.

3. It is the case of the prosecution that the applicant/accused was having land transaction with son-in-law of the complainant. As the cost of the land under transaction suddenly increased, the applicant/accused wanted more money from the son-in-law of the complainant, for which he

was not ready. On 21st October, 2014, the applicant/accused went to the house of the complainant and rang the doorbell, however, the complainant saw the applicant through peephole and so she was reluctant to open the door. Thereafter she heard sound of firing from outside the door and found that one bullet pierced through the door and came inside the room. Therefore, she gave the complaint. The applicant was arrested on 21st October, 2014 and since then he is in prison. Hence, this Bail Application.

4. The learned senior counsel for the applicant/accused has submitted that the applicant/accused is innocent and even the case of the prosecution is taken as it is, it is not an offence under section 307 of the Indian Penal Code. The applicant/accused did not fire at the complainant and it was fired 1 ½ feet below the lock. This shows that the applicant did not have an intention to kill or harm any person. He further submitted that there was no conversation between the complainant and applicant/accused, so the applicant did not know who was inside behind the locked door. He further submitted that at the most, it can be an offence under section 336 of the Indian Penal Code, i.e., rash or negligently doing such act, which may endanger human life. The punishment for said offence is only six months and/or fine. The learned senior counsel further submitted that the applicant/accused is in prison since October, 2014 and he has no criminal antecedents except some complaints filed by Kantilal Chopda, i.e., son-in-law of the complainant.

He, therefore, prays for bail.

5. Learned APP and learned senior counsel for intervener both opposed the Application. Learned APP submitted that it is an offence under section 307 and the statement of many witnesses supporting the case of the complainant are recorded.

6. The learned senior counsel for the intervener submitted that it cannot be an offence under section 336 because there is no rash or negligent act but it is an intentional act of the accused. He relied on the letters given by Kantilal Chopda, son-in-law of the complainant, earlier to the police station informing about the threats and apprehension of attack on the family. One letter discloses that today also, son of the applicant/accused has threatened the family of life and the family is constantly under fear.

7. Read the FIR, statement of the witnesses and spot panchnama. The complainant has given the details that after the bell rung, she went near the door, peeped through the peep hole and found that applicant/accused was standing outside. However, as the applicant used to terrorize the family members of the complainant and he was on inimical terms with son-in-law of the complainant, she did not open the door. Suddenly there was firing and a cartridge pierced through the door and

entered the living room but she was saved. This act cannot be considered as rash or negligent act, so section 336 of the Indian Penal Code cannot be attracted. *Prima facie* it is a case under section 307 Explanation C or section 307 r/w. 511 of the Indian Penal Code, as nobody is injured. Bail could have been granted, however, my attention is drawn to the letters written by son-in-law of the complainant complaining to the police authorities of threats given by the applicant/accused when he was out and thereafter by the son of the applicant/accused that they would eliminate the son-in-law of the complainant and her family members. Under such circumstances, I am not satisfied that the applicant/accused shall not commit any offence of such nature when he is on bail and if released on bail, shall not pressurize or terrorize the complainant, her son-in-law and family members. Hence, the Application for bail is rejected.

(MRS.MRIDULA BHATKAR, J.)