

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2691 OF 2014

Pravin Vishnu Bhilare ... Applicant

Vs.

The State of Maharashtra ... Respondent

with

BAIL APPLICATION NO.189 OF 2015

a/w

CRIMINAL APPLICATION NO.131 OF 2015

Vijay Sadashiv Bhilare ... Applicant

Vs.

The State of Maharashtra ... Respondent

And

Bharat Kerba Wadkar ... Intervener

Mr.P.G. Sarda for the Applicant in BA/2691/2014

Mr.P.M. Patil for Applicant in BA/189/2015

Mr.Arfa Sait, APP, for Respondent – State in BA/2691/2014

Mr.D.P. Adsule, APP, for State in BA/189/2015

Mr.S.H. Nimbalkar a/w Rishi Ghorpade for Intervener in APP/131/2015

Mr.V.B. Nagare, PC/2232, Rajgad police station, Pune (Rural) – present

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

DATE: **JULY 17, 2015**

P.C.:

1. These two applications are for bail. Bail Application No.2691 of 2014 is the first application. However, the bail application No.189 of 2015 is a second application by the applicant/accused. Applicant/accused Vijay Bhilare had filed an application earlier i.e., bail application No.1209 of

2014 which was rejected by this Court on 25.8.2014. However, liberty was given to the applicant/accused to make a fresh bail application if the trial is not complete till 31.12.2014. As on today, the charge is not framed and, therefore, the applicant/accused Vijay Bhilare has moved the second bail application and it is thus entertained.

2. Both the applicants/accused are facing charges under section 302, 307, 120B, 109, 201 r/w 34 of the Indian Penal Code and under sections 25(1)(3), 27(3) of the Arms Act in C.R. No.14 of 2013 registered with the Rajgad police station, Pune. One informant Bharat Wadkar has given the complaint on 1.2.2013 about the incident of assault which has taken place on 1.2.2013. When he alongwith the deceased Santosh Dhanawade were proceeding towards Katraj ghat. At around 7.30pm, some 4 to 5 unknown persons assaulted Santosh with deadly weapons and thereafter, he succumbed to the injuries. At that time, before assaulting him, they asked Bharat Wadkar to run away at the point of revolver. So he went away and contacted the brother of Santosh and reported about this assault. When the family members of Santosh arrived, in between, Santosh was badly assaulted. Both the applicants/accused were arrested on 3.2.2013 and hence, these bail applications.

3. The learned Counsel for the applicant/accused Pravin Bhilare submitted that in initially the offence was registered against unknown

persons. Thereafter, statements of witnesses were recorded on 6.2.2014. However, the applicant/accused was arrested on 3.2.2014. There is a delay in recording of the statements of the eye witnesses which is not explained. There is no recovery from the applicant/accused and he is inside since last two years. He is therefore to be released on bail.

4. The learned Counsel for the applicant/accused Vijay Bhilare submitted that the applicant/accused is in jail since last two years and he is also not produced sometime in the Court. It is further pointed out by the learned Prosecutor that the applicant/accused Pravin has obtained a forged bail order and writ of the Court and on the basis of that, he got himself released from Yerwada jail.

5. The learned Prosecutor while opposing the applications, pointed out that all offences are registered against the applicants/accused under sections 420, 460, 465, 461, 471, 224 r/w section 34 of the Indian Penal Code. He submitted that there are statements of eye witnesses. He relied on the post mortem report. Nearly 28 injuries were found on the body of the deceased. Insofar as the bail application of the applicant/accused Vijay Bhilare is concerned, the learned Prosecutor has produced a copy of the Roznama. The learned Prosecutor as also the learned Counsel for the Intervener submitted that the trial Court is trying to proceed with the matter. However, the co-accused, who are released on

bail, are absconding and some are not attending. Out of 15 accused, only accused Nos.1,2,4 and 5 are inside the jail and other 11 accused are released on bail. It is further submitted that there is no fault of prosecution in the delay of trial. Under such circumstances, it is submitted that the benefit cannot be given to the applicants/accused.

6. I have perused the statements of the witnesses and gone through the FIR. There are eye witnesses who have specifically stated that they identified both the applicants/accused and they have also attributed specific role to the applicants/accused. As regards there is delay of 5 to 6 days in recording the statements of the witnesses, the witnesses have offered some explanation to that effect. However, the explanation is acceptable or not is a matter of evidence. At this stage, as the eye witnesses have stated the names of the applicants/accused, it is not a case for grant of bail. I have also perused the Roznama. It appears that the accused, who are on bail, are not cooperating and not attending the Court dates regularly. Under such circumstances, the prosecution cannot be held responsible for the delay. However, the learned Judge is hereby requested to take all steps available under the provisions of the Criminal Procedure Code in issuing of warrant, proclamation and may separate the trial if it is required but it is necessary for the learned Judge to proceed with the matter and go for an effective hearing.

7. In these circumstances, both the applications are rejected.
8. Intervention application also stands disposed of.

(MRS.MRIDULA BHATKAR, J.)