

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 410 OF 2015**

Sandeep @ Badal Sadashiv Bodke	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Raj Jaysingh Khude for the Applicant

Mr. S. H. Yadav, A.P.P for the Respondent-State

PI Mr. R. D. Mapekar from Kalwa Police Station is present

CORAM : REVATI MOHITE DERE, J.

FRIDAY, 24th APRIL, 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. I-215 of 2014 registered with the Kalwa Police Station, Thane for the alleged offences punishable under Sections 302, 201 r/w 34 of the Indian Penal Code and under Section 37(1) and 135 of the Bombay Police Act.

3. The entire prosecution case rests on circumstantial evidence. It is alleged that the incident in question took place on 4th April, 2014 at about 2:00 a.m. It is stated by the alleged eye-witness Lachha Naidu that on 4th April, 2014, he had seen the deceased Ganya Chor along with Mangya, his brother Ganesh, Sajya and the present applicant. It is alleged that all of them were sitting in rickshaw and drinking liquor. It is alleged that thereafter, he heard a quarrel between them, and saw Mangya assaulting the deceased with a blade and Mangya's brother Ganesh assaulting the deceased with a knife and the present applicant and Sajya giving fist blows to the deceased. It is further alleged that all these four accused, including the applicant took the deceased out of the rickshaw and made him sit on a Bench, on platform No. 2 at the Kalwa Railway Station.

4. Learned Counsel for the applicant states that the eye-witness infact, was not an eye-witness. He submits that subsequently the 164 statement of the said eye-witness, Laccha Naidu was recorded on 17th May, 2014, wherein he has categorically stated that on the insistence of the lady police officer, he had made the aforesaid statement, when, in fact, he had not seen the incident. There is another statement of Jayashree Salvi, who in

her statement has stated that when she came to the Kalwa Railway Station on 4th April, 2013 at 4:30 a.m., she had seen one person sitting on the Bench and that he had bottle in his hand and that he was bleeding.

5. Perused the post-mortem report. The death is shown as death due to hemorrhagic shock, however, opinion was reserved. Perused the charge-sheet, including the 164 statement of the only alleged eye-witness Laccha Naidu. Apart from the fact, that the said witness has in his 164 statement has stated that he had never witnessed the incident and has made the statement only at the behest of the lady officer, there is no other material to connect the applicant with the alleged incident, either in the form of last seen or recovery. Even otherwise, the applicant is alleged to have assaulted the deceased with fist blows. Considering the material on record, the applicant be released on bail on the following terms and conditions :

ORDER

- (i) The applicant Sandeep @ Badal Sadashiv Bodke be released on bail in connection with C.R. No. I-215 of 2014 registered with the

Kalwa Police Station, Thane, on executing PR Bond in the sum of Rs. 10,000/- with one or two solvent sureties in the like amount;

(ii) The applicant shall attend the Kalwa Police Station, Thane, once in a month, on the first Saturday of every month between 10:00 a.m. to 12:00 noon till the conclusion of the trial;

(iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Kalwa Police Station, Thane;

(v) The applicant to cooperate with the conduct of the trial;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

6. The aforesaid observations are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
7. The Application is allowed in the aforesaid terms and is accordingly disposed of.
8. Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.