

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.421 OF 2015

Shri Sambhaji Dnyandev Gawade ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.S.P. Kadam for the Applicant
Ms.R.V. Newton, APP, for Respondent – State

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

DATE: **JUNE 30, 2015**

P.C.:

1. The application is moved for bail as the applicant/accused is arrested on 16.10.2013 in C.R. No.218 of 2013 for the offences punishable under sections 302, 307, 324, 323, 504, 506 r/w 34 of the Indian Penal Code. The information was given by one Sagar Popat Shinde, a resident of Shindemal Karve, Taluka Karad, District Satara. It is the case of the prosecution that there was a dispute between Shinde family and the family of the applicants/accused i.e., Gawade family on account of area of the land. They are neighbours and are in civil litigation against each other. On 16.10.2013, when the complainant and his family members were repairing the compound of their land, at that time, the applicant/accused alongwith his brothers, father and mother, arrived their, abused them and started assaulting the complainant and his family

members. The applicant/accused Sambhaji inflicted a blow of axe on the face of the deceased Anil Shinde. The co-accused assaulted other family members of Sagar with wooden ticks and fists and blows. Anil was admitted to the hospital. However, he died due to rupture of Carotid which resulted into disfunctioning of brain cell. He died on the same day. Hence, this application.

2. The learned Counsel for the applicant/accused has submitted that this is a case of single blow on the face. He submitted that there is a cross complaint against the Shinde family given wherein Bhamabai, mother of the applicant/accused, is the complainant and the offence is registered at C.R. No.222 of 2013 under sections 324, 323 and 504 of the Indian Penal Code on the same day. He submitted that it was a sudden fight and as the complainant and his family members have attacked the mother of the applicant/accused, the incident of assault has taken place. He submitted that the applicant/accused is in prison since 16.10.2013 and prays for bail.

3. Learned Prosecutor has opposed the application. She submitted that it is a case of section 302 and the applicant/accused and the complainant are the residents of same village and neighbours. She further submitted that there are eye witnesses who attributed a specific

role to the applicant/accused of assaulting with axe on the face of the deceased.

4. Perused the FIR, the statements of the witnesses and the post mortem report. It prima facie shows that the applicant/accused has assaulted the deceased with axe. However, it is a case of one blow. It appears from the cross complaint wherein the complainant and his family members are accused in C.R. No.222 of 2013, there was a free fight between the two families, the applicant/accused is taken inside on 16.10.2013. On query, it is reported that there are no criminal antecedents to the record of the applicant/accused. Considering these facts, I am inclined to grant bail on the following conditions:

- i) The applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/-, with one or two sureties 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 and especially in any criminal activity against the complainant or the members of Shinde family;

- iv) The applicant shall stay away from the jurisdiction of the Karwe village and shall not enter the village for nine months from today;
 - v) The applicant shall attend on all the Court dates.
 - vi) In the event the applicant changes his residence, he shall furnish all details thereof to the Investigating Officer;
 - vii) Any breach of the above conditions would entitle the prosecution to move the Court for forthwith cancellation of the bail.
5. Bail application is disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)