

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.457 OF 2015

Popat Bhagwan Shelar	... Applicant
vs.	
The State of Maharashtra	... Respondent

Mr. A.P. Mundargi, Senior Counsel i/b. Mr. P.S. Hagare, for the Applicant.

Mr. Arfan Sait, APP for Respondent – State.

Mr. D.D. Ranaware, for the complainant.

IO. Mr. P.B. Jadhav (ASI), Daund police station, Pune present.

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

DATE: **JULY 01, 2015**

P.C.:

. The application is moved for bail as the applicant/accused is facing charges for the offences under Sections 302, 143, 147, 148, 149, 342, 504 and 506 of the Indian Penal Code. The offence is registered at C.R.No. 164 of 2014 with Daund Police Station on 25th May, 2014 at the instance of informant Ajit Shelar, son of the deceased.

2. It is the case of the prosecution that, in the midnight of 25th May, 2014, mother of the informant received phone from Ajit Narayan Shelar, a neighbour of the accused, that Dadasaheb Shelar was assaulted and therefore, he called them at his house. Therefore, complainant, his mother and some other persons went to the house of Ajit and at that time he told to go to the house of Somnath Shelar i.e. one of the accused. The door of the house of Somnath was closed. After knocking, it was opened. When complainant, his mother and other persons went inside, they found that Dadasaheb was lying on the floor. His hands were tied. Except underwear, there were no clothes on his body. They noticed injuries all over his body. At that time, co-accused told the informant that they have finished his father and not to shout otherwise they would eliminate him also. On hearing this conversation, other persons arrived there. At that time, all the accused persons left the house. Dadasaheb Shelar was declared dead when he was taken to the hospital. Then, the applicant-accused was arrested and he is inside since then. Hence, this bail application.

3. The learned Senior counsel for the applicant/accused has submitted that it is the case of grave and sudden provocation falling

under Exception-I of Section 300 of the Indian Penal Code. He submitted that the applicant/accused has no criminal antecedents. The applicant/accused has entered his house and he found the deceased was found in a compromising position with one of the family member of the accused. The learned senior counsel further submitted that considering the nature of the cause of the grave and sudden provocation, the applicant/accused is entitled to bail. He submitted that the applicant/accused is inside since last one year. He relied on the order passed by this Court in bail application No. 206 of 2015 dated 8th April, 2015 and bail application No. 860 of 2015 dated 30th June, 2015 wherein this Court has released two accused who were similarly placed with the applicant/accused in the commission of the offence.

4. The learned prosecutor opposed the bail application. He submitted that it is not a grave and sudden provocation. There are 23 injuries inflicted on the body of the deceased. He was brutally assaulted. His hands and legs were tied. He further submitted that it is not the case to grant bail. The learned counsel for the complainant has also supported the submissions of the learned prosecutor and

submitted that the manner in which the deceased was killed, is to be taken into account while deciding the bail application.

5. Considering the facts of the case, *prima facie* it is the case falling under Exception-I of Section 300 of the Indian Penal Code. This defence is very much available to the applicant. The applicant does not have criminal antecedents. This case falls under the *Culpable Homicide* not amounting to murder. However, considering the nature of the injuries, I am not inclined to grant bail at this stage.

6. In bail application No. 206 of 2015 the applicant/accused was 22 years old boy. He was distantly related to the family of the accused and no specific role was attributed to him and he has just completed his Diploma in Engineering and therefore considering his age, the bail was granted to him. In bail application No. 860 of 2015 the applicant was 81 years old person and on that ground he was granted bail.

7. In the totality of all the above circumstances, I am not inclined to grant bail to the applicant/accused. Hence, rejected.

8. However, I grant liberty to the applicant/accused to move bail application afresh, if the trial is not concluded within six months. The learned Sessions Judge to endeavor to commence and complete the trial within six months from receipt of this order.

9. The Registrar (Judicial) to communicate the order to the learned Principal Judge, Pune.

(MRS. MRIDULA BHATKAR, J.)