

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

[1] CRIMINAL BAIL APPLICATION NO.623 OF 2015

Ramesh Suresh Kurhade	..Applicant
Versus	
The State of Maharashtra	..Respondent

ALONG WITH

[2] CRIMINAL BAIL APPLICATION NO.624 OF 2015

Rajesh Sham Vitkar	..Applicant
Versus	
The State of Maharashtra	..Respondent

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Mr. Satyavrat Joshi, Advocate for the Applicants.

Mr.S.S. Pednekar, APP, for Respondent–State in BA No.623/2015.

Mr. D.P. Adsule, APP, for Respondent–State in BA No.624/2015.

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CORAM : A. R. JOSHI, J.

DATE : 5th MAY, 2015

P.C.

1. Heard learned Counsel for the applicants in both the Bail Applications. Also heard learned APP for the State.

2. Both the applicants are original accused Nos.4 and 5 in C.R. No.92 of 2014 registered with Chaturshrungi Police Station, Pune City. The offences charged against the applicants are punishable under Section 302 read with Section 34 and relevant sections of the Arms Act.

3. The incident of assault occurred at about 4:00 p.m. in the open ground on 21st March, 2014 in which the assault was on the victim by means of sickle and stones etc.. The main assault is by the other co-accused Nos.1 to 3. According to the case of the prosecution and as per the statements of three eye witnesses, present applicants were also present on the spot and were associates of the main assailants. According to these witnesses the role assigned to the original accused No.4 i.e. the applicant in Bail Application No.624 of 2015 is that of assaulting/slapping one eye witness who narrated the said thing to the first informant later on at the hospital when the injured victim was admitted in hospital for severe injuries. The same role to this applicant-Rajesh was assigned by two other witnesses who were then present on the spot just prior to the incident and were leaving the place prior to infact starting of the

incident of assault.

4. So far as the applicant-Ramesh Kurhade i.e. the applicant in Bail Application No.623 of 2015 is concerned, according to these witnesses, he was simply present on the spot and after the incident he ran away.

5. Apart from these roles assigned to these applicants, there is nothing in the statements of these three eye witnesses so far as involvement of the applicants in the offence is concerned. This aspect is required to be viewed on the case of the prosecution that Section 34 is applied. However, it is still factual position that there is no recovery of anything against the applicants. So also there are no criminal antecedents against them. So far as the case of the prosecution as to assault on the victim out of earlier enmity, the statements of eye witnesses show that the applicants came there on the spot and were associates of the main assailants – original accused Nos. 1 to 3. The applicants are in custody since 30th March, 2014 and 27th April, 2014 respectively. Considering the role assigned to them and no recovery at their instance coupled with the fact that there is no criminal antecedent, their case can be viewed

differently than the role assigned to other co-accused Nos.1 to 3. Hence, on certain conditions, the applicants can be released on bail. Hence the order :

:: O R D E R ::

- (i) Both the Bail Application Nos.623 of 2015 and 624 of 2015 are allowed;
- (ii) The applicants shall be released on bail on their executing a PR bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) each with one or two sureties for the like amount;
- (iii) In the event of availing the bail, the applicants shall attend the concerned police station on every Sunday between 10:00 a.m. to 12:00 noon for the period of six months from the date of this order;
- (iv) Both the applicants shall not directly or indirectly influence the prosecution witnesses or tamper the prosecution evidence in any manner.
- (v) Needless to mention that the observations in this order are of *prima facie* nature and the learned Sessions Judge shall not be influenced by these observations at the time of disposal of the criminal case.
- (vi) Criminal Bail Applications are disposed of accordingly.

(A. R. JOSHI, J.)