

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 695 OF 2015

Mitawa Chandraprakash Godale	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. A.P. Mundargi, Senior Advocate i/b. Mr. Shailesh D. Chavan for the applicant.

Mr. S.S. Pednekar, APP for the respondent/State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JULY 24, 2015**

P.C.:

This Application is moved for bail. The applicant/accused is facing prosecution under sections 302,307 r/w. 34 of the Indian Penal Code in C.R. No. 146 of 2014 registered with Khadki Police Station, Pune. One Mahesh Pawar gave information to the police on 1st July, 2014.

2. It is the case of the prosecution that on 1st July, 2014 at about 7.30 p.m. when complainant Mahesh Pawar along with friends Ravi and deceased Nilesh were proceeding on the road, Nilesh were stopped by four persons near Elphinstone Road. Those four persons had altercations with Nilesh and Ravi. Ravi told Mahesh to go and call some people for help, so he went away. The applicant/accused and co-accused who picked up quarrel with Nilesh started assaulting him. The applicant/accused and co-accused were holding sickle, iron rod and sticks and they all assaulted Nilesh and Ravi. Both Nilesh and Nilesh got injured. Nilesh succumbed to injuries on the same day and Ravi was

treated in the hospital. Pursuant to this, an offence was registered. The applicant/accused was arrested on 2nd July, 2014. Hence, this Bail Application.

3. The learned senior counsel for the applicant/accused has submitted that the statement of injured Ravi is doubtful. In the FIR, names of applicant/accused and co-accused were not mentioned. Four persons who stopped Nilesh are addressed as unknown persons. The informant was not present when the actual assault has taken place. The learned senior counsel further pointed out in the statement of injured Ravi recorded on 2nd July, 2014 that he has specifically stated that he did not know any assailants. In his supplementary statement recorded on 4th July, 2014, he named applicant/accused as person known to him. He has mentioned that the applicant/accused was holding sickle. The learned senior counsel also relied on the statement of Ravi recorded under section 164 wherein applicant/accused is described as person holding screwdriver. The learned senior counsel has submitted that there are material improvement in the statement of Ravi, who is material witness. He further submitted that other eye witness Pravin Jagtap was not present when the actual assault took place. He further submitted that in the statement of Vaijanath Kamble, no specific role is attributed to the applicant/accused. Under such circumstances, the applicant/accused who is in prison since last one year is to be released on bail.

4. Learned APP opposed the Application. He relied on the statement of eye witnesses and the postmortem report. He argued that the assault was brutal. The deceased has sustained nearly 18 injuries. Hence, the applicant is not to be released on bail.

5. Perused the FIR, postmortem report, statement of injured and statements of eye witnesses. The postmortem report discloses that the deceased died due to traumatic and hemorrhagic shock due to head injury. The deceased has suffered 18 injuries on his various parts of the body. Though injured Ravi Pardeshi has stated in his first statement that the assailants were unknown to him, he has improved his statement on 4th July, 2014 so also there is variance in his statement recorded under section 164 of Cr. P.C. However, the fact that the incident has taken place and four persons were involved in the assault is *prima facie* seen from the statement of Ravi. In the statement of witnesses Pravin Jagtap and Vaijanath Kamble, it is mentioned that they knew applicant/accused and the applicant and co-accused were present and they picked up quarrel with Nilesh and Ravi and were fighting with them. The witnesses have not seen the actual assault but have seen part of the assault. No role as such is attributed to the applicant/accused and there is some confusion in respect of weapon used by the applicant/accused. *Prima facie* I am of the view that it is not a case to grant bail. Hence, the Application for bail is rejected.

(MRS.MRIDULA BHATKAR, J.)