

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.692 OF 2015

Rahul Yashwant Shinde ... Applicant
vs.
The State of Maharashtra ... Respondent

WITH
BAIL APPLICATION NO.704 OF 2015

Shrirang Baburao Chorghe ... Applicant
vs.
The State of Maharashtra ... Respondent

Mr. S.V. Kotwal i/b. Mr. Avinash Kamkhedkar, for the Applicant
in B.A. No. 692 of 2015.

Mr. Prashant Patil, for the Applicant in B.A. No. 704 of 2015.

Mr. Arfan Sait, APP for the Respondent-State in B.A. No. 692 of
2015.

Mrs. Veera Shinde, APP for the Respondent-State in B.A. No.
704 of 2015.

IO. Mr. S.B. Pachorkar (PI), Market Yard police station, Pune
present.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: AUGUST 07, 2015

P.C.:

. The applications are moved for bail as the
applicants/accused are facing charges for the offences punishable

under Sections 302 and 507 read with 34 of the Indian Penal Code in C.R. No. 167 of 2014 registered with Market Yard police station, Pune.

2. It is the case of the prosecution that the complainant Reshma Gade gave information to police on 5th December, 2014 about the assault on her husband Sunil Gade. It is her case that the deceased and the co-accused Anand Pasalkar had a land transaction. Some amount was handed over by the co-accused Anand Pasalkar to the deceased Sunil to purchase the land. The said amount was to be returned to co-accused Anand by the deceased. So there was demand of money from the co-accused.

3. It is the case of the prosecution that on 2nd December, 2014 the deceased Sunil informed his wife that he was going to have a meeting with the co-accused Anand Pasalkar and the applicants /accused at hotel Tiranga and he would dine there. Thereafter, the deceased returned home at about 00.30 am on 3rd December, 2014. He was badly injured. He informed his wife that co-accused Anand Pasalkar and the applicants/accused Rahul Shinde and Shrirang

Chorghe called him on the pretext of discussion about the land transaction and assaulted him with belt. So he went to the police station and gave complaint. However they threatened him at the police station and therefore he told the police that he was assaulted with fist and kicks blows. The deceased was not well, while at home. After two days, he was taken to the hospital. There was no improvement in his health and on 5th December, 2014 he become unconscious and shifted in the hospital. So she gave complaint and the offence was registered against the applicants/accused. Unfortunately, Sunil Gade died on 7th December, 2014. Therefore, section 302 of the Indian Penal Code was added. The applicants/accused were arrested on 6th February, 2014. Hence, this bail application.

4. The learned counsel for both the applicants/accused have submitted that they have not committed any offence. They are innocent. They relied on the statements of eye witnesses and other witnesses. They submitted that the N.C. report was registered with the police in which it was stated by the deceased that the applicants/accused have assaulted him with fist and kicks blows. It is submitted that the applicants/accused were not armed with weapons.

They had no intention to kill the deceased. They have not committed the offence of murder. Therefore, they be granted bail.

5. The learned prosecutor opposed the bail applications. He submitted that the applicants/accused were present at the relevant time of the incident. He relied on the complaint of the wife of the deceased. It is submitted that there was quarrel between the deceased and the applicants/accused and co-accused on the same day in the night in respect of the amount of the land transaction. It was submitted that there was a motive of the applicants/accused to assault the deceased. The applicants/accused collectively attacked the deceased with fist and kicks blows and belt. So also the head of the deceased was banged against the bonnet of the car by the applicants/accused. They also assaulted the deceased with belt. Both the learned prosecutors have submitted that the deceased died due to head injury. There are eye witnesses namely Bharat Kamble, Satish Ranjane and Suresh Kolte and they all stated about the assault to the deceased by the applicants/accused with belt. There is a medical certificate pursuant to the query made by the police in respect of the weapon used in the offence. Hence, the applications be rejected.

6. Perused the first information report, postmortem report, the medical certificate and the other documents which are relied on by both the parties. The cause of the death is "*head injury*". It was opined by the medical officer that, there was contusion over cerebellum region of brain and therefore the deceased died. As per the medical certificate issued by the doctor in respect of the weapon used in the offence that such kind of injury might have been caused by use of belt having steel buckle. The statements of the eye witnesses discloses that the deceased was assaulted by the applicants/accused and co-accused. He was assaulted with belt, fist blows and kicks. His head was banged with the bonnet of the car and the assault resulted to the death of the deceased. The statement of the complainant discloses that the applicants/accused and co-accused have assaulted the deceased. The cause of the assault was a dispute between the deceased and the applicants/accused in respect of money transaction. However, there are certain factors which are to be considered at this stage. i) The applicants/accused were not armed with weapons ii) It appears the attack was not premeditated as there was discussion in respect of money involved in the land transaction. iii) The deceased did not die immediately but he was alive for five days after the

incident and then he became unconscious and succumbed to the injuries. On query, it was informed that there are no antecedents in the record against the applicants/accused.

7. In view of the above, though it is the case under Section 302 of the Indian Penal Code, I am inclined to grant bail to the applicants/accused on the following terms and conditions:

8. Hence, I grant bail as under:

- a) Both the bail applications are allowed.
- b) The applicants/accused be enlarged on bail upon furnishing PR. Bond in the sum of Rs. 50,000/- each with one or two solvent surety/s in the like amount.
- c) They shall not tamper with the evidence and shall not pressurize the complainant or other witnesses.
- d) They shall not indulge into any criminal activity, while on bail.
- e) They shall make themselves available and attend all the Court dates regularly.
- f) They shall stay out of Pune city till 30th September,

2015 except attending the Court dates and shall not abscond and furnish their places of abode to the police station.

g) Violation of any of the conditions imposed shall amount to cancellation of bail forthwith.

9. Both the bail applications stands disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)