

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 860 OF 2015

Bhagwan Kondiba Shelar ... Applicant
Vs.
The State of Maharashtra ... Respondent

Mr. Niranjan A. Mogre, Advocate for the applicant.
Mrs. R.V. Newton, APP for the State.
I.O. Mr. Sajjan V. Hankare, P.I., Daund Police Station, Pune present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JUNE 30, 2015**

P.C.:

Not on board. Upon mentioning, taken on board.

2. This Application is moved for bail, as the applicant/accused is facing charges under sections 302, 143, 147, 148, 149, 342, 504, 506 of the Indian Penal Code in C.R. No. 164 of 2015 registered with Daund Police Station, District Pune on 25th May, 2014. The complaint is given by one Ajit Shelar, son of deceased Dadasaheb Shelar.

3. It is the case of the prosecution that at night complainant's father had his dinner and thereafter he went out. At around .55 a.m. on 25th May, 2014 his mother informed him that she received a phone call informing that his father was assaulted in the house of the applicant/accused. Therefore, he along with his mother and other family members went there.

At that time, co-accused tried to stop him from entering the house, however, he went inside and found his father lying in a pool of blood. His father was only in his inner wear and his hands and legs were tied. The co-accused told the informant that they have finished his father and they would also eliminate him if he interferes. Dadasaheb Shelar was declared dead when he was taken to the hospital. On the same day, i.e. 25th May, 2014 the applicant/accused is arrested and he is inside since then. Hence, this Bail Application.

4. The learned counsel for the applicant/accused submitted that this Court has granted bail to co-accused Rahul Shelar by its order dated 8th April, 2015. He further submitted that the applicant/accused and other accused had seen the wife of Somnath and deceased in a compromising position in their house and hence this incident has occurred due to grave and sudden provocation. He submitted that the applicant/accused is 81 years old and on this ground, the applicant be released on bail.

5. Learned APP opposed the Application. She submitted that postmortem report discloses nearly 23 injuries including the incised wounds on the person of the deceased. The hands and legs of the deceased were tied. The statement of witnesses disclose the presence of applicant/accused and statement of the complainant reveals that the

applicant/accused has confessed that he and other co-accused killed the deceased and they would also finish him if he would interfere. Learned APP submitted that this being the murder, the applicant/accused is not to be bailed out.

6. Earlier this Court has granted bail to co-accused Rahul Shelar and as it is pointed out by learned APP that the circumstances which was taken into account by this Court is that the applicant Rahul Shelar was young boy of 22 years and has completed diploma in Engineering and is gainfully employed. The present case definitely falls under grave and sudden provocation, however, there are nearly 23 injuries. The applicant/accused has given extra judicial confession to the complainant, this shows the incident of assault had taken place. However, birth certificate of the applicant/accused discloses that date of birth of applicant/accused is 1st April, 1934 and thus, he is 81 years old. The birth certificate is taken on record. The applicant being old man of 81 years old, I am inclined to grant bail to the applicant/accused on the following terms and conditions:

ORDER

- i) The applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.25,000/-, with one solvent surety in the like amount;

- ii) The applicant shall not tamper with the evidence.
 - iii) The applicant shall not pressurize the complainant and witnesses in any manner.
 - iv) The applicant shall stay out of the village for six months.
 - v) The applicant shall make himself available and attend all the Court dates.
 - vi) The applicant/accused shall not abscond and shall furnish his address to the police along with address proof.
 - vii) Violation of any of the conditions imposed shall amount to cancellation of bail forthwith.
 - viii) The applicant shall not leave India without the prior permission of the Court.
7. The Application stands disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)