

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.952 OF 2015

Satish @ Banti Nandu Rakshe ... Applicant

Vs.

The State of Maharashtra ... Respondent

a/w

BAIL APPLICATION NO.1035 OF 2015

Tejas Balu Kachate ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.V.B. Koshe i/b S.H. Deokar for the Applicant in ABA/952/2015
Mr.A.K. Apte for Applicant in ABA/1035/2015
Mr.S.S. Pednekar, APP, for Respondent – State in ABA/952/2015
Ms.R.V. Newton, APP, for Resp. State in ABA/1035/2015

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

DATE: **JULY 8, 2015**

P.C.:

1. These two applications are being decided together as both the applicants/accused are prosecuted for the offences of murder in relation to the same C.R. No.13 of 2015 registered with the Khed police station under sections 302, 143, 147, 148 and 149 of the Indian Penal Code and under section 135 of the Mumbai Police Act. The incident of assault had taken place on 12.1.2015. It is the case of the prosecution that the deceased

Ganesh snatched a purse from one lady when she was standing at a bus stop. Then the persons who were around, followed Ganesh. He was caught red handed and the persons at the bus stand including the applicants/accused assaulted Ganesh brutally with fist blows, kicks and stick. He died due to the assault of 10 to 12 persons. His father Mallari V. Waghmare gave information to the police pursuant to which the offence was registered. Both the applicants/accused were arrested on 17.1.2015. Hence, these applications.

2. Both the learned Counsel for the applicants/accused submitted that they are falsely implicated out of suspicion. It is further submitted that even assuming that they were present at the place of offence and the act attributed to them is taken as it is, it is not a case punishable under section 302 of the Indian Penal Code. Hence, the applicants/accused be granted bail.

3. Learned Prosecutors appearing for the State have opposed the applications. They relied on the postmortem notes. It is argued by the learned Prosecutors that the deceased was brutally beaten up by the applicants/accused and other co-accused. It is also submitted that there is a recovery of a wire from one of the accused. Hence, they are not to be released on bail.

4. Perused the FIR; the statements of the witnesses and the postmortem report. The deceased was killed in the assault on 12.1.2015. It is evidence that the assault was brutal. However, it was assault by persons, who were in the mob. The attack was not pre-meditated. Further, on query, it is found that there is no criminal antecedent to the record of the applicants/accused. Taking into account the reason for the attack and the nature of evidence as also the role attributed to the applicants/accused, I am inclined to grant bail on the following terms:

- i) The applicants/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/- each, with one or two sureties in the like amount;
- ii) The applicants shall not pressurise the witnesses or tamper with the evidence;
- iii) The applicants shall not indulge into any kind of offence while on bail;
- iv) The applicant shall cooperate with the Investigating Officer and attend on all the Court dates.

5. Bail applications are disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)