

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.982 OF 2015

Chandrakant Sampat Kamane .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.Nitin Pradhan, Senior Counsel with Mrs.Ameeta
Kuttikrishnan, Advocate, for the Applicant
Mr.S.S.Pednekar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 11.09.2015

P.C.

. Heard learned Senior Counsel for the
applicant and the learned APP for the respondent
– State.

2. By this application, the applicant
seeks his enlargement on bail in connection with
C.R.No.I-139 of 2014 registered with the Kamothe
Police Station, Navi Mumbai, for the alleged
offences punishable under Sections 302, 341,
120B r/w.34 of the Indian Penal Code, 1870 and

under Sections 37(1), 135 of the Bombay Police Act.

3. The alleged incident has taken place on 21.07.2014 at about 10.50 p.m.. According to the complainant – Ashok Mhaskar, he was at home having dinner, when his brother Ankush Mhaskar, was assaulted. He has stated that on hearing someone call out his name, he came out and saw that some residents of his building had gathered and that his brother Ankush was lying injured in a pool of blood on the road adjoining the building. Ankush's right hand palm was severed, and there were injuries on his person. Ankush was taken to MGM Hospital, where he was declared dead. On 22.07.2014 at about 1.40 p.m., the complainant lodged an FIR as against unknown persons. During the course of investigation 12 accused persons came to be arrested. The present applicant was arrested on 30.07.2014.

4. Learned Senior Counsel for the applicant submits that the entire prosecution rests on the circumstantial evidence. He submits that there is no material to connect the applicant with the alleged offence. He submits that there is no recovery of clothes or weapons, at the instance of the applicant nor is there any motive alleged as against the applicant. He submits that the only allegation against the applicant is that he procured a shaving blade and iron pipe, which were allegedly used in the commission of the offence.

5. Learned APP opposed the bail application. He submitted that the alleged offence is serious in nature, considering the manner in which the deceased was assaulted. He submitted that the wrist of the applicant was severed, and that the deceased died due to 'haemorrhage shock due to multiple injuries of

body.' He further submitted that there are certain witnesses, who have deposed as against the present applicant i.e. Ravindra Supanekar, Bhimashankar Joshi, Sanjay Pawar & Pankaj Chavan.

6. Perused the charge sheet. Admittedly, the prosecution rests on the circumstantial evidence. As far as the statement of Ravindra Supanekar is concerned, the same is recorded on 25.07.2014. He has stated that he knew that Ankush had inimical relations with Kiran Kanse, the present applicant and others. He has stated that there was an altercation between Kiran Kanse and Ankush, as Kiran Kanse was asking Ankush to take back the complaint against Kiran Sawant. He has further stated that Bhanudas Kolekar had threatened to kill Ankush during the Ganeshutsav. On 21.07.2014 when he was with Ankush at 7.45 p.m., Sharad Ekawade, Bhanudas

Kolekar and some other persons known to Ankush are alleged to have come there and all of them are stated to have left together. The said witness has expressed his suspicion on Kiran Kanse and Bhanudas Kolekar, as there was some altercation between them and Ankush.

7. As far as the statement of Pankaj Chavan is concerned, a perusal of his statement shows, that he met Kiran Kanse and the applicant on 21.07.2014 at Vashi. He has stated that as his brother had met with an accident, the said persons came to Koparkhairane to see his brother. According to the said witness, Kiran Kanse had asked him, where he would get a 'Vastara'. The said witness is stated to have given the address and name of the shop and also shown the shop. He has stated that the present applicant got down and purchased a 'Vastara' and blade from the shop and had showed it to Kiran

Kanse. The statement of Sanjay Pawar, the shop owner shows that the applicant had purchased the vastara and blade from his shop. The statement of the said witness was not recorded to show that he had identified the vastara which was allegedly purchased from his shop, after it was seized from the spot. Similarly, the statement of Bhimashankar Joshi shows that the applicant and his brother would purchase plumbing fittings from his shop. He has stated that in July, the applicant had purchased old iron pipes from his shop. Apart from the aforesaid material, there is no evidence in the form of recovery or any other incriminating material against the applicant. Prima facie, it appears that the motive alleged is against others and not the applicant. The statements of co-accused, being inadmissible cannot be looked into.

8. Learned APP further states that there are two cases registered with the Trombay Police Station, as against the applicant; C.R.No.194 of 2010 for the alleged offences punishable under Sections 323, 325, 427, 404 r/w.34 of the Indian Penal Code and C.R.No.141 of 2014 for the alleged offences punishable under Sections 435, 504, 506 r/w.34 of the Indian Penal Code.

9. Learned Senior Counsel for the applicant states that as far as C.R.No.194 of 2010 is concerned, it arises out of a scuffle between two groups and as far as C.R.No.141 of 2014 is concerned, he states that after the applicant was arrested in the present C.R., he was transferred and shown arrested in C.R.No.141 of 2014.

10. Prima facie, considering the material on record qua the applicant and the fact that

investigation is over and charge-sheet is filed, applicant is enlarged on bail on the following terms and conditions:

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/- with one or two sureties in the like amount;

(ii) The applicant shall attend the Kamothe Police Station, Navi Mumbai Police Station on the first Saturday of every month between 11:00 a.m. to 12:00 noon till the conclusion of the trial;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized

of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate in the conduct of the trial and shall attend the Court on every date;

(vi) The applicant shall not enter the jurisdiction of the Kamothe Police Station, Navi Mumbai till the conclusion of the trial, except for the purpose of attendance, at the police station;

(vii) The applicant shall file an undertaking with respect to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

11. The Application is allowed in the aforesaid terms and is accordingly disposed of.

12. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)

CERTIFICATE

Certified to be true and correct copy
of the original signed Judgment/order.