

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1019 OF 2015

Anil @ Bala Vasant Patil

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. A. P. Mundargi, Senior Counsel a/w Mr. R. D. Suryawanshi Advocate for Applicant

Mr. Y. M. Nakhwa APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 24th JUNE, 2015

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein is arrested on 16/06/2014 in crime no. 301 of 2014 registered at Manpada Police Station on 11/06/2014 initially for offence punishable under section 307 of Indian Penal Code, however, supplementary charge-sheet is filed for offence punishable under sections 302, 307, 147, 148, 149 of Indian Penal Code.

2) It is the case of prosecution that on 11/06/2014, Atul Kene lodged a report at the police station alleging therein that on 11/06/2014, complainant had been to Raigad to see the celebrations of coronation ceremony. After the

function, he was returning home along with his uncle Rishikesh Kene. At about 7.00 p.m., they had reached Sonar Pada bus stop. When they alighted from the bus and were proceeding towards their village, suddenly, Mukesh Patil who happens to be Sarpanch of Sonar Pada came in front of their office. At that time, Mukesh Patil was armed with a wooden log and thereafter all his associates had mounted assault upon Rishikesh Kene. It is alleged that present applicant was armed with an iron rod. On 13/06/2013, Rishikesh Kene succumbed to the injuries and hence, section 302 of Indian Penal Code was added. At the outset, learned senior counsel has submitted that all the co-accused have been enlarged on bail. Learned senior counsel has drawn the attention of this Court to F.I.R. lodged by Mukesh Patil on the same day in respect of same incident. It is specifically alleged in the said F.I.R. that Rishikesh Kene was externed from Thane district. There are several offences registered against him. It is alleged that on 11/06/2014, at about 7.00 p.m. when complainant was standing in front of his office, Rishikesh Kene and his nephew Atul Kene who is complainant in crime no. 301 of 2014 came in front of his office. They were armed with sharp edged knives. As soon as villagers saw them armed with knife, they had closed doors as he used to terrorize the

people. Mukesh Patil had also attempted to flee from the spot, however, Rishikesh had assaulted him on his abdomen with sharp knife. Mukesh Patil had attempted to rescue himself and in the said course, had sustained injury on his hand. All his relatives had come to rescue him, however to no avail. There was an altercation between two groups and tat that time, Rishikesh Kene had sustained injuries to his head, hands and legs in the said altercation. On the basis of the report of Mukesh Patil, crime no. 299 of 2014 was registered at Manpada Police Station on the same day against the deceased and others for offence punishable under section 307, r/w 34 of Indian Penal Code.

3) Learned senior counsel submits that in any case, crime no. 299 of 2014 is registered prior to crime no. 301 of 2014. It is pertinent to note that in the F.I.R., on the basis of which crime no. 299 is registered, there is a specific averment that Rishikesh Kene had sustained injuries to his head, hands and legs. Prelude to the incident is clearly stated in the said report, however, in the report on the basis of which crime no. 301 of 2014 is registered, there is no averment as to whether anybody else including accused had been injured. At the trial it would be a case of non explanation of injuries on the person of

accused. There is a variance in the statements of eye witnesses also. Interested witnesses have stated the same narration as given by complainant whereas independent witnesses have given a different narration.

4) Be that as it may, this Court by an order dated 05/01/2015, this Court had released accused no. 2 Ananta Patil on bail. It is specifically observed that Sarpach i.e. Mukesh Patil had sustained injuries to his abdomen and hand. Accused no. 2 was enlarged on bail. Similarly by an order dated 20/04/2015, this Court has enlarged co-accused Mukesh Patil on bail. Both the Courts had taken into consideration the manner in which incident has occurred and manner in which it is narrated by both the parties. Taking into consideration the facts of the case, submissions advanced across the bar and the fact that all the co-accused are enlarged on bail, coupled with the fact that investigation is completed and charge-sheet is filed, this Court is inclined to grant bail to present applicant. It is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.

- (ii) Applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 25,000/- with one or two solvent sureties in the like amount.
- (iii) Applicant shall report to Manpada Police Station on every Monday between 10.00 a.m. to 12.00 noon till the conclusion of the trial.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)