

Anand

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

**BAIL APPLICATION NO.1219 OF 2015**

Mayur Gulab Ghule .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.A.P.Mundargi, Senior Counsel with  
Mr.P.G.Sarda, for the Applicant  
Ms Veera Shinde, APP, for the Respondent – State

**CORAM : REVATI MOHITE DERE, J.**

**DATE : 06.10.2015**

**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.38 of 2015 registered with the Kondhwa  
Police Station, Pune, for the alleged offences  
punishable under Sections 302, 341, 363 r/w.34  
of the Indian Penal Code and under Sections 3(1)

(i) & (vi) & 3(2)(v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocity Act) and under Sections 32(b) & 33 of the Bombay Money Lenders Act.

3. The deceased is the complainant himself and the complaint is now treated as a dying declaration. According to the deceased, he was working as a driver with Dhananjay Ghule and had left the job about 4 months prior to the incident. He has stated that he had borrowed a sum of Rs.50,000/- from Dhananjay Ghule and that Dhananjay Ghule was continuously demanding the said amount of Rs.50,000/- from him. He has stated that on 22.01.2015 at about 11.00 a.m. Dhananjay Ghule, Dinesh and one unknown person had taken him in an Auto Rickshaw to one place and asked him to pay the money immediately and assaulted him. He has further stated that thereafter, Dhananjay & Dinesh made him sit on a

two wheeler and took him to Dhananjay's office. He has stated that he was forcibly made to drink alcohol and was assaulted. According to him, as he started shouting, he was given an electric shock. He has further stated that at about 5.30 p.m., Dhananjay Ghule poured petrol from a bottle on his person and set him on fire, pursuant to which he ran out on the road. He has stated that the vendors, who were on the road poured water and extinguished the fire. He has further stated that thereafter, Dhananjay Ghule came and pulled out his clothes and helped him wear clothes which he had brought and took him on his motor cycle and dropped him home.

4. Learned Senior Counsel for the applicant submitted that in the complaint which is treated as a dying declaration, name of the applicant does not find place. He submitted that the spot panchanama shows that the complainant

had disclosed to his brother that Dhananjay Ghule, Dinesh and one unknown person had assaulted the deceased, had given an electric shock to him and thereafter, Dhananjay Ghule poured petrol on his person; set him on fire and thereafter, Dhananjay Ghule dropped him back home. The said disclosure is also consistent with the statement made by the deceased to his mother, Mangal Kshirsagar. He submitted that it is only on the next day in the second dying declaration dated 23.01.2001 that the deceased for the first time disclosed name of the present applicant. In the said statement, the deceased has alleged that Dhananjay Ghule, the present applicant and other drivers assaulted him with pickaxe and gave him electric shocks. In the second dying declaration, the deceased has disclosed that it was Dhananjay Ghule, who poured petrol on his person and set him on fire.

5. Learned APP opposed the bail application. She submits that there are statements of vendors, who extinguished the fire who have disclosed that after the incident, Dhananjay Ghule, the present applicant and Akshay Pol chased the deceased. On being asked, learned APP states that there are no antecedents.

6. Perused the charge-sheet, in particular, the statements of the deceased i.e. 1<sup>st</sup> and 2<sup>nd</sup> dying declarations, statements of vendors, spot panchanama and the statement of the mother. Admittedly, the name of the present applicant does not find place in the complaint which is later treated as a dying declaration. The first dying declaration is consistent with the disclosure made to the brother and mother by the deceased. In the second dying declaration, the applicant is alleged to have assaulted the

deceased and has been named for the first time. Infact, the main role is attributed to Dhananjay Ghule, who is alleged to have poured petrol on the deceased and set him on fire. No motive is alleged as against the applicant. There are no antecedents against the applicant. Even otherwise, the investigation is complete and charge-sheet is filed.

7. Considering the aforesaid, the 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.20,000/- with one or two sureties in the like amount;

(ii) The applicant shall attend the Kondhwa Police Station, Pune on the first Saturday between 10:00 a.m. to 11:00 a.m. 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 with the conduct of the trial;

(vi) 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.

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

9. 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.