

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

BAIL APPLICATION NO.1250 OF 2015

Khadkya @ Subhash Govind Kolekar ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Vikas B. Shivarkar for the Applicant.

Ms G.P. Mulekar, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE :4th DECEMBER, 2015.

P. C. :

This is an application for bail filed by the aforesaid Applicant, who is one of the accused in Crime No.347 of 2014 registered with Sangavi Police Station, Pune, for the offences punishable under sections 302, 307, 323 r/w. section 34 of the IPC.

2. The learned counsel for the Applicant submits that the Applicant has not committed overt act in assaulting the deceased Kailash Pandit. He has further stated that the Applicant had no intention to cause death of said Kailash or to participate in the said incident. The Applicant had merely caught hold of said Kailash with

an intention to separate him and the assailant Pappu Kamale. The learned counsel for the Applicant has further stated that the Applicant is a young boy of 25 years and he is in custody since 18.8.2014. He therefore, claims that the Applicant is entitled for bail.

3. The learned APP submits that the FIR and the other material on record reveal that the Applicant had aided the assailant-Pappu by holding the hands of the deceased -Kailash. She has further submitted that the offence is of a serious nature and prima facie, the material on record shows the involvement of the Applicant. She has submitted that the Applicant is a native of Jharkhand and if released on bail, the possibility of the Applicant absconding and not being available for trial cannot be ruled out.

4. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent-State. The material on record prima facie reveals that one Kittu Pandit, the first informant, Sahadev Pandit, one of the injured witness, the deceased Kailash and the Applicant herein were working at a construction site on 17.8.2014 at about 6.30 p.m. Sahadev had gone to the ground floor in order to switch off the electric

connection of the machine. At which time Pappu had also switched off the electric connection of the shade and there was an altercation between the said Pappu and Sahadev. The deceased Kailash had intervened and questioned Pappu as to why he was quarreling and told him that he would complain to the employer Vikas Sheth. At that time Pappu left Sahadev and assaulted Kailash by means of a wooden log. It is stated that the Applicant, who was present at the place of incident had held the hands of Kailash.

5. The records reveal that there was an altercation between Pappu and one Sahadev over switching off the electric connection. When the deceased intervened between them, the assailant Pappu had given a blow of wooden long on his head. The material on record prima facie indicates that the incident was not premeditated and had occurred at spur of the moment.

6. It is pertinent to note that the records do not prima facie reveal that the Applicant had caused any injury to the deceased Kailash. The only allegation against him is that he had held the hand of Kailash. Considering the nature of the allegations levelled against the Applicant, in my considered view this is a fit case to grant him bail.

The Applicant cannot be declined bail merely because he is a resident of Jharkhand. Stringent conditions can be imposed to ensure his presence before the Court during the trial.

7. Under the circumstances and in view of the discussion supra, the application is allowed on the following terms and conditions:-

(i) The Applicant is ordered to be released on bail on furnishing bail bonds of Rs.50,000/-(Rupees Fifty Thousand only) with two local sureties in the like amount to the satisfaction of the Sessions Judge, Pune.

(ii) The Applicant shall furnish his permanent address as well as local address to the Investigating Officer. The Investigating Officer shall verify both the addresses before the Applicant is released on bail.

(iii) The Applicant shall not leave the jurisdiction of Pune- District till conclusion of the Trial.

(ANUJA PRABHUDESSAI, J.)