

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1261 OF 2015**

Akshay Mafa Parmar	...Applicant
Versus	
The State of Maharashtra	...Respondent

WITH

CRIMINAL BAIL APPLICATION NO. 1503 OF 2015

Akshay Abhimanyu Rathod	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Vikas B. Shivarkar for the Applicant in BA/1261/2015

Mr. Akram Kapoor for the Applicant in BA/1503/2015

Mr. S. S. Pednekar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

TUESDAY, 1st SEPTEMBER, 2015

P.C. :

1. Heard learned Counsel for the applicants and the learned A.P.P. for the State.

2. By these applications, the applicants seek their enlargement on bail in connection with C.R. No. 69 of 2015 registered with the Bharati

Vidyapeeth Police Station, Pune, for the alleged offences punishable under Sections 302, 323, 143, 144, 147, 148, 149 of the Indian Penal Code, 1870.

3. The deceased is Vijay Chandane and the first informant is his brother Ravindra Chandane. Admittedly, the first informant is not an eye-witness to the alleged incident, which took place on 4th March, 2015 at about 8:30 p.m. It is alleged by the complainant that on 4th March, 2015 when he returned from work, one watchman who was working with his brother in Samruddhi Enterprises, came running and disclosed to him that Vijay Chandane's body was lying in an open space near the Company and that he was bleeding from his head. The complainant went to the spot and found that the deceased had sustained grievous injuries. The deceased was taken to the hospital where he was declared dead. Accordingly, a complaint was lodged by Ravindra Chandane as against unknown persons.

4. Mr. Shivarkar, learned Counsel for the applicant Akshay Parmar states that there is no material as against the present applicant. He submitted that the eye-witnesses in the said case i.e. Pravin, Kumbhar and

Prem Malhotra do not disclose the name of the present applicant. He submitted that there is no recovery as against the present applicant.

5. The learned Counsel Mr. Kapoor appearing in Criminal Bail Application No. 1503 of 2015 states that as far as Akshay Rathod is concerned, the said accused has neither been named in the FIR nor has been named by any witness, nor has he been named by Kunal Chavan, a witness, who is alleged to have seen all the accused together on that day before the assault.

6. Learned A.P.P states that although the eye-witnesses have not disclosed the names of the present applicants, there is an extra judicial confession allegedly made by Akshay Rathod to Saurabh Bhagat. He does not dispute the fact that there is no recovery as against the present applicants. He submits that one Kunal Chavan has disclosed the name of Akshay Parmar- applicant in Bail Application No. 1261 of 2015, wherein, he had seen the said applicant along with the other co-accused on that day prior to the incident. He does not dispute the fact that the applicants do not have any antecedents.

7. Perused the charge-sheet. Admittedly, the complainant is not an eye-witness and the complaint has been lodged as against unknown persons. As far as Pravin Kumbhar and Prem Malhotra are concerned, both have not named the applicants-Akshay Parmar and Akshay Rathod. There is no recovery at the instance of the applicants. Only on the basis of an extra judicial confession allegedly made by Akshay Rathod, bail cannot be denied to the present applicants, more particularly, when there is no reference to the name of the person who they allegedly assaulted. The applicants have no antecedents. The applicant in Bail Application No. 1503 of 2015 is stated to be a student.

8. Considering the material on record, and the fact that investigation is completed and charge-sheet is filed, the applicants are enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicants be released on bail, on executing PR Bond in the sum of Rs. 15,000/- each with one or two sureties in the like amount;

(ii) The applicants shall not tamper or attempt to contact the complainant or any witness concerned with the case;

(iii) The applicants shall attend the concerned Police Station once in a month on the first Saturday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

(iv) The applicants shall inform their latest places of residence and mobile contact numbers 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 applicants to cooperate with the conduct of the trial;

9. The aforesaid observations 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.

10. The Applications are allowed in the aforesaid terms and are accordingly disposed of.
11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.