

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1587 OF 2014

Shri Krishnanathrao @ Krishna Ganpat Hajare ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.M.S. Mohite i/b Shivaji Annappa Masal for the Applicant
Ms.Veera Shinde, APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MARCH 30, 2015**

P.C.:

1. The application is moved for bail. The applicants/accused is facing charges of murder and assault punishable under sections 302, 341, 342, 504, 506 r/w 34 of the Indian Penal Code. One Umaji Bhandare is the deceased who was the real brother of the principal accused No.1 Shahaji Bhandare. Umaji was killed by assaulting with sticks on 10.7.2013 by the applicant/accused and the other three co-accused. It is the case of the prosecution that the deceased used to abuse his Shobha, wife of accused No.1 Shahaji. He used to criticise Shobha for her free behaviour and that was a cause of quarrel between the two brothers. Co-accused No.1 was very angry with the deceased and he brought the deceased on 10.7.2013 by giving him false information that Shobha has set her on fire. On arrival of the deceased, at the house of the accused No.1, as per the case of the

prosecution, the applicants/accused and the other 3 co-accused tied his hands to the tree and assaulted him with sticks. The deceased sustained multiple injuries and died due to head injury and other multiple injuries on the same day at 12 noon when he was taken to the hospital. The applicants/accused and the other accused were arrested red handed on the spot as the wife of the deceased had arrived when they all were beating him and the incident of assault was reported to the concerned police station by one of the members of the public. The applicants/accused and the other accused were taken into custody and hence, this bail application.

2. The learned Counsel for the applicant/accused has submitted that the applicants/accused is a nephew of the accused No.1 and the deceased and he did not have any malice or any ill intention against the deceased. He happened to be there as the accused No.1 had called him to discuss the matter with the deceased in respect of his behaviour with Shobha. He submitted that he prays for bail mainly on the ground of parity as the co-accused one Prakash bhandare was granted bail on 14.8.2014. He submitted that Prakash Bhandare was a friend of the applicants/accused who came along with him on that day. However, he was also present and he was also holding stick and hitting the deceased. The role attributed to Prakash and the applicants/accused is the same and

therefore, the applicant is also to be released on bail.

3. The learned Prosecutor opposed the application. She submitted that the statement of the complainant, the wife of the deceased Suman Bhandare, under section 164. she relied on the post mortem report which discloses nearly 23 injuries most of them were contusion and pointed out the cause of death was head injury and multiple injuries on vital organs. She pointed out that the applicants/accused was present and as per the statement of the witnesses, he was armed with the stick and has assaulted the deceased.

4. It is true that the presence of the applicant/accused, *prima facie*, cannot be denied so also the act attributed to him of assaulting the deceased with the stick is also *prima facie* seen. On perusal of the order passed by this Court on 14.8.2014 in the criminal bail application No.894 of 2014 of Prakash Ashok Bhandare, it is found that Prakash was also present at the time of the incident and he also assaulted the deceased with the stick. The wife of the deceased has stated that the accused No.1 and the applicant/accused and the other two accused have tied him to the tree and all were beating him with the sticks. No specific role is attributed to either of the accused by her which is also expected at that stage as she was trying to save her husband. However, considering the statement of

Shobha that she is the wife of the accused No.1, she has mentioned that her husband has called the applicant/accused to discuss the matter with the deceased. Therefore, this applicant/accused arrived. Considering this, it appears that the applicant/accused was not having any motive against the deceased and he had come there for discussion alongwith the co-accused Prakash, his friend. The applicant/accused was arrested immediately as the police arrived there when he was assaulting the deceased. Thus, the applicants/accused is in prison since July, 2013. In view of this and considering parity, I grant bail to the applicants/accused with the same conditions as reproduced below:

“The applicant is ordered to be released on bail upon furnishing P.R. Bond in the sum of Rs.50,000/- with one surety in the like amount, or two sureties in the sum of Rs.25,000/- each, on the condition that the Applicant shall not enter the local limits of the Kavathemahankal police station till the conclusion of the trial”.

5. Bail application is disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)