

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

CRIMINAL BAIL APPLICATION NO. 1651 OF 2015

Hanumant Bhagwan Shinde ..Applicant

v/s.

The State of Maharashtra. ..Respondents

Mr. Satyawrat Joshi i/b. Sharon Patole for the Applicant
Mrs. G. P. Mulekar, APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : DECEMBER 05, 2015.**

P.C.

1. This is an application filed by the aforesaid applicant who is facing trial in Sessions Case No. 48 of 2015 before the Sessions Judge, Pune for the offence punishable under Section 302, 324, 323, 504, 143, 147, 149 r/w. 34 of the Indian Penal Code.

2. The case of the prosecution in brief is that on 6.11.2014 at about 10.30 p.m. the applicant and others formed an unlawful assembly and assaulted Ruplal by kicks and blows and by means of

iron rod and thereby caused his death.

3. Shri Joshi, learned Counsel for the applicant submits that the applicant is not involved in inflicting injury on the vital parts and that the allegations against the applicant are that he was involved in assaulting the victim- Ruplal by fist blows. He has further stated that the statement of one of the witness reveals that the incident had occurred at the spur of moment. He submits that the applicant had no intention of causing death of deceased Ruplal. He therefore claims that the applicant is entitled for bail.

4. The learned APP submitted that the applicant was the member of the unlawful assembly, and that he had played an active role in assaulting the deceased. She has further stated that the blood stained clothes and the stone was recovered at the instance of the applicant. She further stated that the applicant is involved in committing several crimes, including the offences of rape, dacoity, kidnapping etc. She therefore submits that the applicant is not entitled for bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties. The FIR lodged by one Manoj Dholakia prima facie reveals that on 6.11.2014 at about 10.30 p.m. the applicant and other had gathered near Ramabai Zopadpatti and were creating commotion. The complainant Manoj, his sister in law Rekha and his friend Ruplal had tried to convenience the applicant and others, not to create commotion, as they were returning home. The applicant herein had assaulted Ruplal as he had put his hand over the shoulder of Rekha. He abused and assaulted Ruplal questioning him as to why he had put his hand over the shoulder of Rekha. Thereafter, the applicant and others assaulted Ruplal. The complainant intervened and separated them and told Ruplal and Rekha to proceed towards their house. When they reached at the open space near the house of one Rajesh Jadhav, the applicant and others once again assaulted Ruplal by kicks and blows. He has alleged that Vinod had caused head injury to Ruplal by assaulting him by stone.

6. The statement of Rekha prima facie reveals that the applicant herein and others had assembled near the house of one Gaikwad at Ramabai Nagar Zopadpatti, when her brother-in-law told them not to make noise. Thereafter when they were proceeding towards their house, the applicant herein and others assaulted Ruplal by questioning him as to why he had put his hand on her shoulder. Thereafter, the applicant once again assaulted Ruplal by kicks and blows and on seeing this, his other associates came to the place of incident and they too started assaulting Ruplal by kicks and blows. She has stated that her brother-in-law intervened and separated them and she further stated that when they reached near the open space in front of the house of Rajesh Jadhav, the accused no.1 once again assaulted Ruplal by kicks and blows and that Vinod hit stone on the head of Ruplal.

7. The FIR as well as the statement of eye witness Rekha prima facie reveals the involvement of the applicant in commission of the said crime. Though initially the incident appears to have occurred at the spur of moment, the records reveal that the applicant and the

other co-accused had assaulted Ruplal even after the complainant Manoj had intervened and separated them and told Ruplal and Rekha to proceed towards their house. The records further reveal that while Ruplal and Rekha were proceeding towards their house, the applicant once again went and assaulted Ruplal by means of blows and kicks and on seeing the applicant assaulting Ruplal, his other associates had also started assaulting Ruplal.

8. The medical report also reveals tht the deceased had sustained 12 injuries, with several fractures over the vital parts, besides the injury no.1-head injury caused by Vinod. The medical report further indicates that the injuries mentioned in column no.7 along with the injuries mentioned in column 19 and 20 are independently sufficient to cause death. The material on record therefore prima facie proves the involvement of the applicant and others in commission of the said crime.

9. The learned APP has placed before me a list of cases pending against the applicant. A perusal of which shows that the applicant

was involved in commission of 13 offences, including dacoity, rape, kidnapping, theft etc. The criminal antecedents of the applicant also do not justify release of accused on bail. Further, the evidence of the eye witnesses is not yet recorded. Releasing the applicant on bail at this stage can hamper the trial.

10. Considering the above facts and circumstances, in my considered view, the applicant is not entitled for bail. The application for bail is dismissed, with liberty to the applicant to file fresh application after the evidence of the eye witnesses is completed.

(ANUJA PRABHUDESSAI, J.)