

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1655 OF 2015

Shri Dinesh S/o. Jumman Godale	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent
Mr. Manoj Badgujar, Adv. i/b. Shailesh Waseem I. Shaikh, Adv. for applicant.		
Mr. S.S. Pednekar, APP for the State.		

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 15th December, 2015.

P.C. :

1. This is an application for bail filed by the applicant who is facing trial in Sessions Case No.687 of 2014 for the offences punishable under Sections 302 and 307 read with 34 of IPC. The said case arises from Crime No.146 of 2014 registered at Khadki Police Station for the above offences.

2. The case of the prosecution is that the applicant and the other accused with common intention committed murder of Nilesh Pawar and attempted to cause the death of Ravi Pardeshi. The said crime came to be registered pursuant to the FIR lodged by one Mallesh Gaikwad. The applicant was arrested in said crime on 4th August, 2014. After filing of the chargesheet, the applicant had filed

bail application which came to be rejected by the Sessions Court vide order dated 17th December, 2014. The applicant has therefore filed the present application for bail under Section 439 of Cr.P.C.

3. Mr. Badgujar, the learned counsel for the applicant has submitted that there is no prima facie material to show the involvement of the applicant in committing the said crime. He therefore submits that the applicant is entitled for bail.

4. Mr. Pednekar, the learned APP for the State submitted that the material on record prima facie shows the involvement of the applicant in commission of the said offence.

5. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties. A perusal of the FIR reveals that on 1st July, 2014 at about 7.14 a.m. the complainant along with the injured and deceased Nilesh, was proceeding towards Vanwadi. When they had reached near Prakash Flower Shop, Elphiston Road, four persons had an altercation with Nilesh and thereafter assaulted Nilesh and Ravi Pardeshi. The FIR reveals that the complainant Mallesh had gone to Bopadi Veer

Gogodavnagar to call the brother of Ravi and when they returned to the place of incident they found that Ravi and Nilesh were lying on the road in injured condition. The injured were taken to the hospital. Nilesh was declared dead.

6. The postmortem report reveals that Nilesh had sustained about 17 injuries over his body. Most of the injuries are on the vital part of the body. The Doctor has opined that the death of Nilesh was due to Traumatic and hemorrhagic shock due to head injury. The records, therefore, reveal that Nilesh was brutally murdered.

7. The statement of the injured Ravi also prima facie indicates that on 1st July, 2014 at about 7.30 four persons had assaulted him and Nilesh. The minor variations in the statements recorded under Section 161 of Cr.P.C. and recorded by the Magistrate under Section 164 of Cr.P.C. do not negate the accusations against the applicant. There is sufficient material on record to prima facie prove the involvement of the applicant in the said crime. The offence is of serious and heinous nature. The nature and gravity of the offence would not justify to grant the bail to the applicant. Moreover, the trial has not commenced, the injured and other eyewitnesses are yet to be

examined. Grant of bail therefore can hamper the trial. Under these circumstances, the bail application is, therefore, dismissed.

(ANUJA PRABHUDESSAI, J.)