

Anand

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

BAIL APPLICATION NO.1704 OF 2015

Aba alias Manik Rajhans Kale .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.A.P.Mundargi, Senior Counsel i/b. Mr.Ganesh
Bhujbal, for the Applicant

Mr.S.S.Pednekar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 15.09.2015

P.C.

. Heard learned counsel for the applicant
and the learned APP for the respondent – State.

2. By this application, the applicant
seeks his enlargement on bail in connection with
C.R.No.137 of 2015 registered with the Shirur
Police Station, Pune(Rural), for the alleged
offences punishable under Sections 143, 147,
148, 149, 302, 323 & 506 of the Indian Penal
Code, 1870.

3. In the said case, the present applicant has been arrested along with seven other co-accused. According to the complainant, Dhananjay Yamraj Kale, the incident took place on 27.04.2015 at about 10.00 p.m. He has alleged that he had gone with the deceased Shabbir Shaikh and his driver Ravindra Kale to 'Maitraya Petrol Pump' to fill diesel in the car. At that time, deceased was sitting besides the drivers seat and the complainant behind the driver. According to the complainant, two cars came from behind, one Fiat and one Swift car. He has alleged that Jitendra Kale, Vinod Kale, the present applicant, Samir Kale and other 5-6 persons got down from the car, picked up stones lying near the spot and rushed in the direction of their car. It is alleged that Jitendra Kale and the present applicant pulled Shabbir Shaikh out of the car and gave him fist blows. Thereafter, all the accused are alleged to have

assaulted Shabbir Shaikh and some are alleged to have assaulted the driver. It is alleged that when Shabbir was lying on the ground, Jitendra, the present applicant, threw stones on Shabbir's head. Thereafter, the accused are alleged to have fled from the spot after threatening the persons present there.

4. Learned Senior Counsel submitted that in the present incident, the allegations are that the applicant along with others threw stones on the deceased Shabbir Shaikh, as a result of which he sustained head injuries. He submits that co-accused Jitendra Kale and other accused have been enlarged on bail by the Sessions Court. He submitted that as far as the motive is concerned, the present applicant had no motive to assault the deceased Shabbir Shaikh.

5. Learned APP submitted that as far as the order granting bail to co-accused Jitendra Kale is concerned, the same is a cryptic order and parity cannot be claimed on the basis of the said order. He submitted that the complainant has attributed a specific overt act to the applicant and that the injured Shabbir succumbed to the head injuries on the spot. He submitted that the applicant has no antecedents.

6. No doubt the order enlarging the co-accused Jitendra Kale on bail is cryptic. It appears that the present applicant was not armed with any weapon at the relevant time when he along with others went to the spot. The stones were allegedly picked up from the spot by the present applicant, Jitendra Kale and 5-6 others and thrown on the deceased. Deceased died due to head injury. The spot panchanama does not reveal the size of the stones which were pelted on the

deceased Shabbir Shaikh. All other co-accused have been enlarged on bail. There are no antecedents qua the present applicant nor any motive is alleged as against the applicant. It also appears that the applicant has not been identified by any other eye witness in the Identification Parade.

7. Considering nature of allegations and the fact that charge-sheet is filed, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the Shirur Police Station, Pune(Rural) on the first Saturday of every month between 10:00 a.m. to 11:00 a.m. till the conclusion of the trial;

- (iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number 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 applicant to cooperate with the conduct of the trial;
- (vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein 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.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)

CERTIFICATE

Certified to be true and correct copy
of the original signed Judgment/order.