

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2282 OF 2014
with
CRIMINAL APPLICATION NO.134 OF 2015

1. Imran R. Mujawar	
2. Rohit Sudhir Kamble	... Applicants
Vs.	
The State of Maharashtra	... Respondent
And	
Smt.Aruna Shiraj Khatik & anr.	.. Interveners

Mr.S.A. Ingawale for the Applicants
Ms.Veera Shinde, APP, for Respondent – State
Mr.K.P. Lad for Intervener in APPP/134/2015

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

DATE: **MARCH 30, 2015**

P.C.:

1. This is an application for bail as the applicants/accused are facing charges under section 302, 147, 148, 149, 352, 12B of the Indian Penal Code. It is a double murder case where two persons namely one Nitin Shinde and Sameer Khatik were murdered on 2.2.2014 by the co-accused and the applicants/accused. In all, there are 10 accused who were arrested by the police and prosecuted for these charges. The applicants are the accused Nos.7 and 9 respectively. It is the case of the prosecution that one Nitin Shinde i.e., the deceased, was running one club and there were some monetary transactions between his employee and one Hanmant Chavan i.e., the accused No.1. Some money was lent by accused No.1, to his employee and he was demanding exorbitant interest

on it and so there was quarrel and threats were given to each other by the co-accused to Nitin Shinde and his relatives and his employees. His employer Amit Hegde thereafter lodged a complaint with the police and therefore accused Nos.1 to 4 and the applicant/accused and other co-accused armed with sickle and chopper, chased Nitin and so also Sameer Khatik at night at around 10.15 pm and they killed both of them. They died on the spot. One Amar Shirse, the nephew of Nitin gave the complaint to the police and then the offence was registered at C.R. No.26 of 2014 with the Rajarampuri police station, District Kolhapur against the co-accused Nos.1 to 4 and the other unknown 4 to 5 persons. The applicants/accused were arrested 2 days thereafter i.e., 4.2.2014 and since then, they are in custody. Hence, this application for bail.

2. The learned Counsel for the applicants/accused has submitted that there is no evidence against the applicants/accused. They are innocent. He submitted that in the FIR, the names of these applicants are not mentioned by the informant, but as an eye witness. He further submitted that no eye witness has taken the names of these applicants, as they were with the accused Nos.1 and 4. He submitted that only 3 persons have subsequently identified the applicants/accused in the test identification parade which was conducted a month after the incident i.e., on 4.3.2014. He submitted that there is no concrete evidence against the applicants/accused as, in the identification parade, 7 accused persons

were standing alongwith 14 dummies and the witnesses were asked to identify 7 accused persons out of them.

3. The learned Prosecutor while opposing this application, relied on the memorandum of test identification parade so also the supplementary statements of three witnesses, who identified the applicants/accused. She further relied on the seizure panchanama dated 5.2.2014 and she submitted that the blood stained clothes of the applicants/accused were found. While meeting with this, the learned Counsel for the applicants/accused has submitted that the clothes were not seized at the instance of the applicants/accused but from an open space.

4. The learned Counsel for the Intervener while supporting the prosecution, submitted that as against applicant/accused No.1 Imran, there is a criminal antecedent registered at C.R. No.88 of 2012 in which he is charged with the offence under section 307 of the Indian Penal Code and he was on bail when he committed the present offence.

5. Perused the complaint, the statements especially of witnesses Sagar, Aruna and Tahsildar including the supplementary statement, the memorandum of the test identification parade and the papers produced by the prosecution and the applicants/accused. Also perused the seizure panchanama. The names of both the applicants/accused are not

mentioned in the FIR. However, there is a mention that there were 4 to 5 unknown persons. They all were armed with weapons. There is a recovery i.e., seizure of blood stained clothes. However, it is from the open space.

6. As per the submissions of the learned Counsel for the Intervener, the applicant/accused No.1 Imran has criminal antecedent of similar nature i.e., under section 307 of the Indian Penal Code and he was on bail at the relevant time. Further, there is a statement of one witness as pointed out by the learned Prosecutor and which is fairly conceded by the learned Counsel Mr.Ingawale, wherein it is stated that the said witness saw both the applicants/accused alighting from the vehicle alongwith the principal accused. This shows that the applicants/accused were the associates of the principal accused and were present at the time of the incident. Considering this, I am not inclined to grant bail to any of the accused.

7. Accordingly, the bail application is rejected.

8. Intervention application also stands disposed of.

(MRS.MRIDULA BHATKAR, J.)