

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

BAIL APPLICATION NO.2108 OF 2015

Akshay Rajendra Kadam ...Applicant

Versus

The State of Maharashtra ...Respondent

**WITH
BAIL APPLICATION NO.1247 OF 2015**

Mahesh @ Mayur Bhaskar Pawar ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. M.K. Kocharekar, i/b. Mr. Somet Shirsat for the Applicant
in BA No. 2108 of 2015

None present for the Applicant in BA No.1247 of 2015.

Ms Veera Shinde, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 8th DECEMBER, 2015.

P. C. :

These are bail applications filed by the aforesaid Applicants, who have been facing trial in Sessions Case No.9 of 2015 pending on the file of the learned Additional Sessions Judge, Nashik. The said case arises from C.R. No.286 of 2014 registered with

Panchwati Police Station, Nashik, for the offences punishable under sections 302, 307, 326, 143, 147, 148 and 149 r/w. section 34 of the IPC and section 135 of the Bombay Police Act.

2. The case of the prosecution in brief is that the Applicants herein alongwith other accused had committed murder of one Chitteshwar Ramji Singh, who was the manager of Hotel Kunal.

3. Mr. M.K. Kocharekar, the learned counsel for the Applicant in Bail Application No.2108 of 2015 has submitted that the names of the Applicants are no reflected in the FIR. He has further submitted that no proper identification parade is held and that the first informant identified the Applicants only at the police station. He further submits that the statement of the security guard cannot be relied upon and the same was recorded after considerable delay.

4. The learned APP has submitted that the material on record prima facie proves the involvement of the Applicants in committing murder of Chitteshwar Singh. She further submitted that the offence is of a serious nature and hence, the Applicants are not entitled for bail.

5. I have perused the records and considered the submissions

advanced by the learned counsel for the Applicant in Bail Application No.2108 of 2015 and the learned APP for the Respondent -State. The records prima facie reveal that one Chitteshwar Singh was working as a manager of Hotel Kunal. On 16.9.2014 at about 11.00 p.m. Sandip Pagar, other manager of the said hotel told Chitteshwar Singh to inform the security guard to close the gate. The FIR prima facie reveals that when said Chitteshwar had gone near the gate to inform the watchman at which time he was assaulted by some unknown persons between the age group of 20 to 25 years of age. The first informant therefore, had lodged complaint against three unknown persons for causing injuries to said Chitteshwar Singh. Based on the said FIR, Crime No.286 of 2014 came to be registered. The post mortem report prima facie reveals that said Chitteshwar Singh had sustained several stab wounds and incised wounds over vital parts of the body and he had succumbed to the injuries due to septicemia due to multiple perforations of gut consequent upon stab injury to abdomen. The post mortem report prima facie reveals that death was homicidal. The statement of one Sandip Pagar also prima facie reveals that on the relevant date said Chitteshwar Singh had come near the gate and told the watchman to close the gate. At which time the

Applicants herein had told the Chitteshwar Singh to serve them alcohol and when he refused to do so they had stabbed him by means of knife and caused him injuries. The statement of Sandip Pagar further prima facie reveals that on the relevant date Chitteshwar Singh had gone near the gate to and told the watchman to close the gate, which prima facie proves the presence of the security guard at the place of the incident. Delay in recording the statement of said security guard cannot *per se* be the ground for grant of bail. The nature of the injuries sustained by the deceased indicates that he was brutally assaulted. The offence is of a serious nature. Considering the gravity of the offence the Applicants are not entitled for bail. Moreover, the trial has not commenced and grant of bail to the Applicants will hamper the trial.

6. Under the circumstances, and in view of the discussion *supra*, the applications are dismissed.

(ANUJA PRABHUDESSAI, J.)