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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2144 OF 2015

Jayendra Kisan Dubala	..Applicant.
Vs.	
The State of Maharashtra &Anr.	..Respondents

WITH

BAIL APPLICATION NO.1496 OF 2015

Smt.Champu Vajya Tandel & Anr.	..Applicants
Vs.	
The State of Maharashtra & Ors.	..Respondents

Mr. Rizwan Merchant a/w Swapnil Wagh i/b Rizwan Merchant & Associates for applicants.
Ms. P.P. Shinde, APP for the State.
Mr. A.D. Shinde, P.S.I., Vangaon Police Station present.

CORAM: A.S. GADKARI, J.

DATE : 3rd December 2015.

P.C.

1 As per the chargesheet the applicants are terms as accused no.5-Jayendra Kisan Dubala, accused no.20-Smt.Champu Vajya Tandel and accused no.21-Smt. Anita Parshuram Dhapashi respectively. The applicants are seeking bail in CR No.I-43 of 2014 registered with Vangaon

Police Station, District-Palghar under Sections 120-B, 302, 396, 395, 143, 147, 148, 149, 504, and 506 of the Indian Penal Code and under Sections 37(1) (3) and 135 of the Bombay Police Act.

2 The date of incident is 31.10.2015. The first information report has been lodged by Mr. Mahesh @ Ravi Laxman Chaudhari, the father of the deceased Mayur Chaudhari. It is the case of the prosecution that, on 31.10.2015 the complainant and his son Mayur had been to their farm house. The complainant left the farm house thereafter. His son Mayur also left the farm house to attend other duties. The deceased had requested the witnesses namely Abhi Patil, Shailesh and Suresh to look after the work which was being carried out at the relevant time. The deceased Mayur had employed about 18 workers to clean weeds from the farm house wherein plantation of Chikoos and Coconuts was done. It is the prosecution case that the complainant and his wife had decided to purchase the land bearing Survey Nos.83, 84 and 86 from Shailesh Govari, Dattu Vajya and one Kindrya. They had also got registered a power of attorney for the same. There was dispute over the said land with accused persons namely Manoj Patil, Jagdish Tandel and Parshu Tandel. There were quarrels between the said two families. On the report lodged by the said accused persons, the complainant and his son Mayur were put behind the bars for about 10

months. As far as the incident in question is concerned, it is stated in the first information report that on 31.10.2015 at about 8.00 a.m., the complainant along with his daughter Madhuri, Suresh and Mayur had been to their agricultural land. They had asked Shailesh Govari to get the weeds clean from the said agricultural land and thereafter he had left the wadi along with his daughter. At about 12.00 noon the accused no.1 Manoj Patil along with other 21 persons came to the said land and threatened the Manager to leave the said land. As stated earlier, Mayur had already left the said spot for attending his other duties. As Mayur was not present at the spot, the accused persons named in the first information report alleged to have concealed themselves behind the trees in the said farm house. As soon as Mayur returned to the said spot, all the accused persons mounted assault on him with deadly weapons like sickle, chopper, sticks etc and caused homicidal death of Mayur.

3 Mr. Merchant, the learned Counsel for the applicants submitted that the first information report lodged by the father of the deceased is on the basis of information received by him and therefore as far as the said witness is concerned, his information with respect to the actual assault is hearsay evidence. The learned Counsel for the applicants has pointed out the statements of three eye-witnesses namely Abhi Patil,

Shailesh Govari and Suresh Machhi. The said three eye-witnesses have categorically stated that, the accused no.1 Manoj Patil and accused no.4-Paarshu inflicted blows with the help of sickles on the neck and hands of the deceased Mayur and at the same time the accused no.3-Jagdish inflicted blow with the help of chopper on the chest of Mayur. That at that time the other accused persons named in the statements of these three eye-witnesses assaulted the deceased with the aid of sickles, wooden logs, iron rods etc. The postmortem notes which are on record demonstrates that the deceased had suffered CLWs and incised wounds on various parts of the body. There are four abrasions on the different parts of the body. The learned APP submits that the ribs of the deceased Mayur were found to be fractured and that is due to assault committed by the other accused persons.

4 I have perused the entire record and the statements of the eye-witnesses. The statements of the eye-witnesses disclose that the accused no.1 Manoj Patil, accused no.3-Jagdish and accused no.4-Parshu were instrumental in inflicting the blows with the help of sickle and chopper and causing the major injuries to the deceased. The role attributed to the present applicants is that, they were the members of unlawful assembly and in furtherance of their conspiracy they took part in the assault on the deceased. It is to be noted here that no specific role along with any weapon

has been attributed to any of the applicants herein. In the said three statements of the eye-witnesses the general allegation is made that they were part of the said unlawful assembly and assaulted the deceased with the help of sticks, wooden logs and iron rods.

5 In view of the above, I am of the opinion that the applicants have made out a prima facie case for releasing them on bail.

Hence, the following order:

- (i) The applicants shall be released on bail in CR No.I-43 of 2014 registered with Vangaon Police Station, District-Palghar on their furnishing P.R. Bond of Rs.15,000/- each with one or two separate sureties in the like amount.
- (ii) After their release from jail, the applicants shall attend the Vangaon Police Station once in a month on every first Monday of the month till the completion of trial.
- (iii) The applicants shall not tamper with the the prosecution evidence and/or influence the prosecution witnesses.
- (iv) Both the applications are disposed off in the aforesaid terms.

(A.S. GADKARI,J.)

