

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2274 OF 2015

Kanha Dharma Dabka

..Applicant

-Versus-

State of Maharashtra

..Respondent

Ms. Vrishali Raje for applicant

Ms. Rutuja Ambekar, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 5th December 2015.

P.C.

1] The applicant is seeking bail in C.R.No.I-06 of 2014 registered with Dahanu police station, Dist. Thane under sections 307, 323, 436 IPC and section 3(a) of Explosive Substances Act.

2] The complainant Raghu Dabka in his complaint has stated that the applicant is his nephew. That the applicant was having enmity over the landed property. that there was an enmity which had arisen as the present applicant had refused to give the share of his sister viz., Smt. Manju Mor which she was claiming. As the complainant had tried to mediate in the said matter, there was an

enmity. The F.I.R. further states that on 14th January 2014, when the complainant was sleeping in his house at about 1.00 a.m. all of a sudden the bricks of his wall fell on his body. He, therefore, came out of his house to see what had happened. He noticed that there was a hole of about 2 feet in his wall. In the light of the torch, he noticed four feet long piece of wire. In the morning he noticed that there were gelatin caps lying in a black colour plastic bag to which wire was attached. He, therefore, had suspicion against the present applicant to be instrumental in the said incident. After registration of the F.I.R., police investigated the matter and now the charge sheet has been filed.

3] Heard the learned Counsel for the applicant and the learned APP for State. The learned Counsel for the applicant submitted that except strong suspicion which flows from the alleged motive, there is no other material against the applicant.

4] On the other hand, Learned APP submitted that at the instance of co-accused, Raju Gadag, some gelatin sticks with wires attached to it were recovered. Learned APP further submitted that

the complainant who is injured witness has categorically stated in his statement that on the next date, when he inspected the spot, he found two gelatin sticks, two plastic bags of black colour containing gelatin sticks with caps on it and wires attached thereto. Learned APP also pointed out to certain statements of the witnesses who have stated that on 14th November 2014, at about 1.15 p.m. in the after noon, when they were inspecting the spot of incident, they saw that the applicant came at the said place, however, after he saw the witnesses, he, without collecting the said gelatin sticks which were lying at the spot, ran away.

5] I have perused the charge sheet annexed to the application. It is true that except motive, there is no other material against the applicant to show his complicity in the present crime. Even the first informant does not speak about the presence of the applicant in the afternoon at the spot which has been stated by the other witnesses. It appears that the prosecuting agency has further failed to establish the link between the actual supplier of the said gelatin sticks which were procured by the accused No.3 Raju Gadag and subsequently given to accused No.2, Kailas Dabka.

6] In view of the above, the applicant has made out a prima facie case to release him on bail. Hence, the following order:-

- (i) The applicant shall be released on bail in C.R.No.I-06 of 2014 registered with Dahanu police station, Dist. Thane, on his furnishing P.R.Bond of Rs.20,000/- with one or two solvent sureties in the like amount;
- (ii) The applicant shall attend Dahanu police station on first Monday of every month between 10 a.m. and 12.00 noon till the trial is completed;
- (iii) The applicant shall not tamper with and/or influence the prosecution witnesses;
- (iv) Application is allowed in the aforesaid terms;

(A.S.GADKARI, J)