

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE – CRIMINAL
BAIL APPLICATION NO. 2707 of 2014

Vaibhav @ Prashant Jagannath Patil ... Applicant

Vs

The State of Maharashtra ... Respondent

Mr. Mohammed U. Kazi for the Applicant

Mrs. A.A. Mane, APP, for the Respondent -State.

Mr. R.H. Patil, PSI, Padgha Police Station, present.

CORAM: P.D. KODE, J.

DATED: FEBRUARY 4, 2015.

PC:

By this application charge-sheeted accused No.5 in a charge-sheet submitted by Padgha Police station, Taluka Bhiwandi, District-Thane against the Applicant and 10 more accused for commission of offences punishable under sections 302, 120 B, 147, 148 and 149 of the IPC, has prayed for bail. The said police station has accordingly charge-sheeted the Applicant and said co-accused as a result of investigation of Crime No.I-103 of 2014 registered with said police station on 28.6.2014 upon first information report lodged by Ujjwal @ Pandu Shantaram Patil regarding an incident which had occurred on the same day at about 18.00 hours in which his brother Mangesh Shantaram Patil, Sarpanch of village

Khambala was assaulted by members of unlawful assembly named in the FIR lodged and for causing his death. Perusal of the charge-sheet reveals that the Applicant has not been named as assailant in the FIR.

2. Learned APP opposed the prayer for bail on the ground that the said incident of assault on the deceased was out come of conspiracy hatched by all the charge-sheeted accused and as such the Applicant being involved in commission of offences for which he is charge-sheeted. Learned APP submitted that prosecution has collected material showing nexus of the Applicant with the conspiracy hatched and executed, in the shape of statement of three witness, viz. Atmaram, employee of Gram Panchayat office regarding an incident which had occurred on the previous day of the main incident in which the Applicant has expressed his desire to show his intentions to the deceased in event he had been present in the Gram Panchayat where the said incident had occurred and secondly that of the wife of the deceased Mangala and one Shashikala sister-in-law of deceased regarding an incident which had occurred on 27.6.2014 in the evening in which the Applicant alongwith other co-accused had been to the house of the deceased

and had threatened of removing his eyes, breaking his limbs and killing him. Learned APP by laying stress upon the said material submitted that the same is sufficient to infer that the Applicant entertaining a motive to kill the deceased and there being proximity of time in between occurrences of the said events and the occurring of the main incident on the next day. It is her submission that said material considered in proper perspective would led to a reasonable belief of the main incident having occurred for achieving the object of conspiracy hatched of killing the deceased, by the Applicant alongwith the co-accused. It is urged, hence prima facie involvement of the Applicant being borne in commission of offence in the charge-sheet prayer for bail should not be acceded.

3. Perusal of the charge-sheet no doubt contains the material as referred by learned APP. It also contains material prima facie showing that the deceased had succumbed to death as a result of assault made by members of unlawful assembly. It also reveals that said main incident had occurred on the next day after occurring of the incidents pointed out by APP on previous day. However, still considering the law of conspiracy the said material

though may be sufficient to show the Applicant having a motive to kill the deceased, the said material itself reveals that on the relevant day Applicant had not committed any act of committing the murder of the deceased. The remaining material in the charge-sheet and particularly the material pertaining to the assault made by assailants resulting in death of Mangesh in terms does not reveal that Applicant was present at the said point of time. Having regard to it and there being no sufficient material in the charge-sheet establishing nexus of the Applicant with offence of murder, prima facie makes it difficult to negative the prayer for bail on the count of presuming main incident was out come of an assault committed in pursuance of the conspiracy as alleged.

4. Resultantly, the application is allowed. The applicant is directed to be released on bail in C.R. No. I-103 of 2014 of Padgha Police Station, District Thane on furnishing the PR. Bond in the sum of Rs.1,00,000/- (Rupees One Lac only) with one or more sureties to make up like amount and subject to conditions that after his release the applicant shall (i) stay at the address mentioned in the application and shall not change the same without prior permission of the Court; (ii) attend the I.O. on every

Monday in between 11.00 to 1.00 p.m. until further order; (iii) not indulge in activity of tampering, threatening, coercing, intimidating or pressurizing the prosecution witnesses in any manner; and (iv) not misuse the bail granted vide this order for fleeing away or for committing any further offence.

5. The application accordingly stands disposed of.

(P.D. KODE, J.)