

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.558 OF 2016

1. Sunny @ Chalis Vasant Patil,
Age 21 years, Occu. Labour work,
R/o Sant Gadgebaba Nagar,
Jalgaon, Taluka and Dist. Jalgaon
2. Sonya @ Sonu @ Lalit Ganesh
Chaudhari, Age 20 years,
Occu. Education R/o Hareshwar
Colony, Jalgaon, ..Applicants

Versus

- . The State of Maharashtra,
through Police Station Officer,
M.I.D.C. Police Station, Jalgaon,
Taluka and District Jalgaon ..Respondent

Mr S.P. Brahme, Advocate for applicants
Mr S.P. Sonpawale, A.P.P. for respondent
Mr B.S. Shinde, Advocate for complainant, assisting the A.P.P.

CORAM : N.W. SAMBRE, J.

DATE : 22nd February 2016

PER COURT

Heard.

2. The applicants are seeking regular bail in Crime No.138 of 2015 registered with M.I.D.C. Police Station, Jalgaon, District Jalgaon, for the offences punishable under Sections 302, 307, 326, 143, 147, 148, 149, 337, 323, 120-B read with sec.34 of the Indian Penal Code and under Sections 37 (1) (3) read with sec.115 of the Bombay Police Act.

3. The prosecution case against the present applicants is that one Bhushan was assaulted by present applicants along with the other accused persons. It is upon intimation by Bhushan to his father, Suresh, his father Suresh and brother Chandrakant both came on the

spot. Brother Chandrakant was murdered with the weapon by one Chingya Alande, who has also injured the father Suresh of the complainant.

4. So far as the present applicants are concerned, the role attributed to them in the F.I.R is assaulting the complainant with stones and fists blows.

5. In this background, Mr Brahme, learned Counsel for the applicants would urge that the investigation in the matter is complete and charge-sheet is already filed. As such, further detention of the applicants is not necessary. The second limb of his submission is, the applicants are claiming parity with Sagar and Laxman, who were released on regular bail by this Court vide order dated 21st December 2015 passed in Criminal Application No.5222 of 2015. He would then urge that the applicants can be released on parity, as the role attributed to them is similar one. He would further urge that in the statement of eye witness Ashwin, he has not stated about the alleged assault by the applicants to the complainant, Bhushan.

6. Learned A.P.P., who is assisted by learned Counsel for the complainant, Mr Shinde would urge that there is strong prima facie case against the applicants, as there is eye witness to the incident in question. He would then urge that the provisions of Sections 149 and 34 of the Indian Penal Code are invoked against the present applicants and as such, the their intention to commit serious and grave crime punishable with death or life imprisonment, is apparent.

It is claimed that against applicant No.1, upon a complaint lodged by the complainant narrated some time in the month of February, N.C. was registered. As such, it is prayed that the applicants being members of the gang be not released, as there is every likelihood of tampering the evidence.

7. With the assistance of learned Counsel for the applicant and learned learned A.P.P., I have perused the charge-sheet and also perused the statements of witnesses and other evidence on record. In the F.I.R., the role attributed to the applicants is that of assaulting the complainant by fists blows and also throwing stones. The eye witness Suresh, in his statement does not attribute any role to the applicants-accused, whereas the other witness i.e. complainant and Ashwin speaks of assaulting the complainant by applicants.

8. It is required to be noted that while releasing the accused Laxman and Sagar on regular bail, this Court in paragraph 7 of the order observed thus :

“7. On going through the F.I.R. and statements of eye witnesses, who are neighbourers, it can be seen their role attributed to applicants Sagar and Laxman is that they beat the injured with kicks and fists and assaulted by pelting stones. The main role is attributed to other accused.”

9. In this background, the plea of parity as claimed by the applicants needs to be considered in their favour. The role attributed

to the present applicants, Sagar and Laxman, who are already released on regular bail, appears to be similar. The investigation does not depict that applicants have played any active role in murdering deceased Chandrakant.

10. In the above background, in my opinion, it will be appropriate to release the present applicants on bail.

11. As such, Criminal Application stands allowed. The applicants be released on bail in Crime No.138 of 2015 registered with M.I.D.C. Police Station, Jalgaon, District Jalgaon, for the offences punishable under Sections 302, 307, 326, 143, 147, 148, 149, 337, 323, 120-B read with sec.34 of the Indian Penal Code and under Sections 37 (1) (3) read with sec.115 of the Bombay Police Act, upon furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount, by each of them.

12. The applicants shall not tamper with the prosecution evidence and shall make themselves available as and when required.

13. Till conclusion of trial, applicants shall not keep themselves away from the jurisdiction of M.I.D.C. Police Station, Jalgaon, District Jalgaon, except for the purpose of trial with prior intimation to concerned Police Station.

(N.W. SAMBRE, J.)