

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 176 OF 2016**

Ganesh Lahu Johari	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. Sachin S. Thombare for the Applicant

Mr. Arfan Sait, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 21st APRIL, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 122 of 2015 registered with the Paud Police Station, Pune, for the alleged offence punishable under Section 302 r/w 34 of the Indian Penal Code.
3. The incident has taken place on 10th June, 2015 at about 3:30 a.m. to 4:00 a.m. It is the prosecution case, that the deceased had suffered

an epileptic attack, pursuant to which, he was admitted in Unique Hospital, Bhugaon, on 10th June, 2015 at about 8:00 p.m, and that against medical advise, the deceased had got himself discharged from the Hospital. The present incident has taken place thereafter. According to the prosecution, co-accused Gotya @ Nilesh Surve assaulted the deceased with the iron rod and the present applicant is alleged to have assaulted with his hand. The said incident is stated to have been witnessed by about 3 to 4 persons.

4. Learned Counsel for the applicant submits that there are allegedly four eye-witnesses to the said incident of assault. He submits that three out of the four witnesses have stated that it was Gotya @ Nilesh Surve who assaulted the deceased with an iron pipe and that the present applicant was only standing on the spot. He submitted that only one witness i.e. Pappu Dharamsingh has stated that the applicant also assaulted the deceased with his hand. Learned Counsel for the applicant submits that there are no antecedents *qua* the applicant.

5. Learned A.P.P opposed the bail application. He submits that the Investigating Officer is not present.

6. Perused the charge-sheet, in particular, the statements of the eye-witnesses. Eye-witnesses Akshay Eknath Marne, Vineet Dattatray Bhilare and Navraj Nandlal Ravnal have specifically stated in their statements that it was Gotya who was assaulting the deceased with an iron pipe and the applicant was standing at the spot. They have not attributed any overt act to the applicant. Pappu Dharamsingh - the watchman of the building is the only witness, who has stated that the present applicant had also assaulted the deceased with his hand, when Gotya @ Nilesh Surve was assaulting the deceased with an iron pipe. Investigation is complete, charge-sheet is filed.

7. Considering the role of the applicant, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 15,000/- with one or two sureties in the like amount;

(ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 11:00 a.m. to 12:00 noon for a period of 12 months from the date of his release;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number within one week of his release, and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial;

(vi) An undertaking to the aforesaid clauses (ii) to (v) shall be filed by the applicant, in the trial Court, within two weeks after his release;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.