

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.234 OF 2016

Harshal Prabhakar Velapure

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Karan Bhosale i/b. Ms Neha Dilip Bhosale for the
Applicant.

Mr. J.H. Ramugade, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 25th FEBRUARY, 2016.

P. C. :

This is an application for bail filed by the aforesaid Applicant, who is facing trial in Sessions Case No.24 of 2015 pending on the file of Additional Sessions Judge, Pune, for offences punishable under sections 302, 307, 143, 147, 248 and 149 of the IPC, section 37(1) of Bombay Police Act and section 4 and 25 of the Arms Act. Said case arises out of Crime No.248 of 2014 registered at Vishrambag Police Station, District-Pune, pursuant to the FIR lodged by one Rohit Ramesh Jadhav.

2. The case of the prosecution in brief is that on 29.9.2014 the Applicant alongwith other co-accused formed an unlawful assembly

armed with deadly weapons and inflicted several injuries on Om Kadam and there by committed his murder. The Applicant herein is also alleged to have inflicted injuries on Sumit Sonawane and thereby attempted to commit his murder. The Applicant herein had filed an application for bail before the learned Additional Sessions Judge, Pune. The said application came to be rejected vide order dated 7.8.2015. Hence, the present application.

3. Mr. Karan Bhosale, the learned counsel for the Applicant has submitted that there are material contradictions between the statements of the eye witnesses recorded under section 161 of the Criminal Procedure Code and under section 164 of the Criminal Procedure Code. He has further submitted that the co-accused against whom similar allegations are made, have already been released on bail and hence the Applicant is entitled for bail on the ground of parity. He has further submitted that no weapon has been recovered at the instance of the Applicant. He has further stated that though the blood stained clothes have been allegedly recovered from the Applicant, the C.A. report is inconclusive and the same cannot be considered as an incriminating circumstance to link the Applicant with the said crime. He has submitted that the charge sheet is already filed and the

presence of the Applicant is not required in custody. He has submitted that the Applicant is a permanent resident of Pune and there are no chances of his absconding.

4. Mr. J.H. Ramugade, the learned APP has submitted that the deceased was murdered in a most brutal manner. The learned APP has submitted that the Applicant and the other co-accused had inflicted as many as 42 injuries on the victim and also on Sumit Sonawane. He further submits that statements of all the eye witnesses prima facie reveal the involvement of the Applicant in the said crime. He submits that gravity of the offence would not justify grant of bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent -State. The FIR dated 29.9.2014 lodged by Rohit Ramesh Jadhav prima facie reveals that on the same day at about 8.30 p.m. while he and his friend had seen a crowd gathered near Charudatta Agency, Niranjana Madhav road. He has stated that his friend Rohit got down from the motorcycle and on seeing them some people ran away from the spot of the incident. The complainant had stated that when he went near the spot of the incident, he saw Om Kadam lying at the spot with serious injuries. He has stated that Sumit

Sonawane had also sustained injuries and they were taken to the hospital.

6. The records reveal that said Om Kadam had expired on the same day. The post mortem report prima facie indicates that said Om Kadam had sustained as many as 42 chop injuries and incised injuries in the nature of chop injuries and abrasions all over his body. The post mortem report reveals that the death was due to traumatic and hemorrhagic shock due to chop and incised injuries.

7. The statement of Sumit Sonawane, who is one of the injured persons prima facie indicates that the Applicant herein and the other co-accused were armed with sickles and that they had inflicted injuries on Om Kadam (deceased). The statement of one Jaggu @ Chetan Thopate also prima facie reveals that the Applicant herein was armed with sickle and that he had inflicted injuries on head shoulder, face, etc, of Om Kadam. The Statement of Suresh Kadam, father of the deceased also prima facie reveals that on hearing shouts of his son, he had gone to the place of the incident and that he had seen the Applicant and other co-accused inflicting injuries on his son by means of sickle. The statements of all the eye witnesses prima facie reveal that the Applicant herein was involved in inflicting injuries on the

deceased Om Kadam. As stated earlier, the deceased Om Kadam had sustained as many as 42 injuries, which fact prima facie indicates that Om Kadam was murdered in a most brutal manner. The gravity of the offence itself would not justify grant of bail. Furthermore, the trial has not commenced. Release of the Applicant on bail at this stage can hamper the trial and thus, thwart the course of justice.

8. Under the circumstances, the application is dismissed.

(ANUJA PRABHUDESSAI, J.)