

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.301 OF 2016

Satish Shankar Mahala & anr. ... Applicants

Vs.

The State of Maharashtra ... Respondent

Ms.V.R. Raje for the Applicants

Ms.Rutuja Ambekar, APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MARCH 17, 2016**

P.C.:

1. This application for bail is moved by the applicants-accused who are prosecuted for the offences of murder punishable under section 302 of the Indian Penal Code. The offence is registered at the instance of one Ramesh Sukhya Kharpade with Talasari police station at C.R. No.I-108 of 2015 on 12.7.2015. It is the case of the prosecution that the complaint is a Police Patil. He informed the police that an unknown person from Sutraka village was murdered. Pursuant to that, in the supplementary statement, he gave complaint that the person was killed by the applicants/accused and other co-accused as they suspected that the deceased had stolen cellphone of one of the accused persons. They killed him by fist blows, kicks and assaulted him by the stone on his head. The applicant-accused No.1 was arrested on 24.7.2015 and applicant-accused No.2 was arrested on 26.7.2015. Hence, this application.

2. The learned Counsel for the Applicants has submitted that there is no evidence against the applicants/accused. The applicants/accused are innocent. It is further submitted that whatever circumstantial evidence is collected by the investigating machinery is not sufficient to book the applicants-accused for the offence u/s 302 of the Indian Penal Code. She submitted that the charge-sheet is already filed against the applicants/accused.

3. Learned Prosecutor while opposing the bail application has submitted that the cell phone of the deceased is seized from the accused No.1 and the police collected CCTV footage recording from the CCTV camera which was fixed at the factory where the applicants/accused are working together. The incident has taken place on 11.7.2015 and thereafter on 12.7.2015 both the accused remained absent. She further submitted that the clothes of the applicants/accused are seized and they are sent to the C.A. However, the C.A. Report is awaited.

4. Perused the FIR, relevant statements and papers in the chargesheet. There is no eye witness to the incident. The prosecution is relying on the CCTV footage. However, the transcripts of the CCTV footage is not produced alongwith the chargesheet. Moreover, it is a footage of the applicants/accused and the complainant when they were coming out or going inside the factory but admittedly all are working in the same factory.

5. Considering the evidence, which is pointed out to the Court, I am inclined to grant bail to both the applicants/accused on the following terms:

- i) Both the applicants-accused, namely, Shri Satish Shankar Mahala and Shri Rajesh Baban Pawar, shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/- each, with one or two solvent sureties in the like amount;
- ii) The applicants-accused shall not tamper with the evidence or pressurise the complainant;
- iii) The applicants-accused shall not indulge into any criminal activity, especially against human body and shall attend on all the Court dates;
- iv) The applicants-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof;
- v) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

6. Bail application is disposed of accordingly.

(MRIDULA BHATKAR, J.)