

Anand

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

BAIL APPLICATION NO.450 OF 2016

Avinash Manohar Pastapure .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.J.D.Mane, Advocate, for the Applicant
Mr.Arfa Sait, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 08.03.2016

P.C.

. Heard learned counsel for the Applicant
and the learned APP for the Respondent – State.

2. By this Application, the Applicant seeks
his enlargement on bail in connection with C.R.No.
64 of 2015 registered with the Madha Police
Station, District – Solapur, for the alleged
offences punishable under Sections 302, 323, 324,
504 r/w.34 of the Indian Penal Code and under
Section 3(i)(x) and 3(ii)(v) of the Scheduled Caste

and Scheduled Tribe (Prevention of Atrocities) Act

3. The incident in question has taken place on 30.09.2015. According to the Complainant – Dayanand Devkar, the present Applicant had come to the hotel along with the co-accused Akshay Pachpule and Mayur Pachpule. He has stated that when one Pandit Kale came to the hotel, the Applicant and the two co-accused came and pelted a stone at Pandit Kale, as a result of which he fell down. He has stated that Akshay Pachpule picked up a stick, which was lying there and started assaulting Pandit Kale on his legs, below the waist. He has stated that as a result of the said assault with the stick, there was heavy bleeding from the legs. He has further stated that co-accused Akshay Pachpule picked up a tile which was lying near the hotel and started assaulting Pandit Kale on his chest and on his private part with the said tile. Thereafter, according to the Complainant, the present Applicant

came there and asked Akshay Pachpule to stop assaulting Pandit Kale. He is alleged to have stated "तुझ्या पाया पडतो तु पळून जा". He has further stated that the present Applicant took both the accused from the said place and was abusing both the co-accused.

4. Learned counsel for the Applicant submitted that considering the said statement of the Complainant, which is recorded under Section 164 Cr.P.C., it is clear that the Applicant had not played any role in the assault that was mounted on Pandit Kale by the other co-accused. He submitted that on the contrary, the Applicant tried to intervene and asked the co-accused stop the assault on the deceased.

5. Learned APP states that the deceased was mercilessly beaten by the accused and the same is evident from the post mortem report which is on

page No.94 of the Application.

6. Perused the papers, in particular, the statement of the Complainant which is recorded under Section 164 Cr.P.C.. It is evident from the said statement that the Applicant had not assaulted the deceased. On the contrary, the Applicant begged the co-accused to stop the assault. No doubt, the Applicant was present, but the learned APP is unable to point from a single statement that the Applicant assaulted the deceased.

7. Considering the aforesaid, the applicant is entitled to be 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 not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released 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;

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

(v) 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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)