

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.529 OF 2016

DATTATRAY RAMCHANDRA CHANDILKAR)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Shailesh D. Chavan, Advocate for the Applicant.

Mrs.P.P.Bhosale, APP for the Respondent - State.

CORAM : ABHAY M. THIPSAY, J.

DATE : 30TH MARCH 2016.

ORAL ORDER :

1. Heard Mr.Shailesh D. Chavan, the learned counsel for the applicant. Heard Mrs.P.P.Bhosale, the learned Additional Public Prosecutor for the respondent/State.

2. The applicant, who was arrested on 24/12/2012 and who is since then in custody, had even earlier applied for bail. However, after advancing some arguments, the said Bail Application (Bail Application No.719 of 2014 decided on 21/07/2014) was withdrawn by the applicant. Now, the prayer

for bail has been renewed primarily on the ground that though the applicant is in custody for a period of more than three years, the trial has not commenced and even the charge has not yet been framed. It is also submitted that the material showing the involvement of the applicant in the alleged offences is not satisfactory.

3. I have carefully gone through the charge-sheet, a copy of which is annexed to the application. I have also considered the say filed by the Investigating Officer, submitted through the Public Prosecutor, which has been taken on record.

4. The applicant is the original accused No.6 in C.R.No.198 of 2012 registered at Paud Police Station, Pune.

5. On 23/12/2012, one Hanumant Chandilkar was assaulted by Santosh (original accused No.1), Mangesh (original accused No.2), Mahesh (original accused No.3), Pandurang (original accused No.4) and Ramdas (original accused No.5) by sickles, causing injuries to said Hanumant, who died as a result of the said injuries.

6. The allegations against the applicant is that he had conspired with the actual assailants and that it was he who had instigated them to commit murder of Laxman – father of the said Hanumant, or any other members of the family of Laxman. This

instigation was, allegedly, given because of the property disputes which are pending between applicant and the said Laxman, who are real brothers.

7. Though that there exists a dispute between the applicant and his brother Laxman, whose son – Hanumant – was murdered, is not in dispute, it is also not in dispute that the applicant is not the actual assailant. It is not the case of the prosecution that the applicant was present on or near the spot at the time of the assault.

8. The material against the applicant consists of the statement of one Kanhu Vasant Medhe, who claims that on 18/12/2012 he had seen the applicant with the actual assailants; and that the applicant had, at that time, told the actual assailants that Laxman Chandilkar, or his children, should be eliminated and that, the applicant would pay an amount of Rs.one lakh for this work. As per this statement, the applicant actually paid some amount to Santosh Chandilkar- the accused No.1, at that time itself.

9. Kanhu Medhe, however, did not report the matter to anyone. He is said to have informed Laxman about it only on 23/12/2012 at 8.00 a.m. The assault took place on 23/12/2012 at 6.30 p.m. Apparently, in spite of the prosecution case to the

effect that Laxman was made aware of the accused persons to attack him or his family members in the morning itself, he did not disclose it to anyone till after the actual assault. Except the statement of Kanhu Medhe, there is no other material against the applicant to show his involvement in the alleged offences.

10. Though it cannot be said that there exists no *prima facie* case against the applicant, considering the role attributed to him and the material in support thereof, in my opinion, his case needs to be treated differently from that of the actual assailants for the purpose of bail.

11. The applicant is in custody for a period of three years. Charge has not yet been framed. There are no antecedents. Even the say filed by the Investigating Officer today through the Public Prosecutor emphasizes on the criminal background of Santosh Chandilkar, the accused No.1, and not that of the applicant.

12. Considering all the relevant aspects of the matter, I am inclined to release the applicant on bail, subject to certain conditions.

13. On the suggestion of the learned Public Prosecutor that the applicant should not be permitted to enter the local limits of Village Lavale, I have asked the learned counsel for the

applicant as to whether the applicant is ready to abide by such condition. The learned counsel for the applicant answers in affirmative.

14. The application is allowed.

15. The applicant is ordered to be released on bail in the sum of Rs.50,000/- with one surety in like amount or two sureties in the sum of Rs.25,000/- each, on the following conditions:

- (i) The applicant shall not enter the local limits of village Lavale till the disposal of the case against him;
- (ii) The applicant shall report to Paud Police Station on every Sunday between 5.00 p.m. to 7.00 p.m. till the disposal of the case against him;
- (iii) The applicant shall not contact, meet or approach the prosecution witnesses, in any manner whatsoever.

16. Application is disposed of accordingly.

(ABHAY M. THIPSAY, J.)