vks

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.776 OF 2016

Lahu Pandit Chavan .... Applicant
V/s.
The State of Maharashtra .... Respondent

Mr. Aniket U. Nikam, for the Applicant.
Mfor the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 14th JUNE, 2016.

P.C. :

1. The applicant-accused in Crime No.212 of 2015, registered with Dattawadi Police Station, Pune, for the offence punishable under Section 302, 323, 143, 147, 148, 149 of the Indian Penal Code, under Sections 37(1) (3) r/w 135 of the Bombay Police Act and under Section 4(25) of the Arms Act by this application is seeking bail during pendency of the trial.

2. Heard learned counsel for the applicant. By pointing out, the F.I.R., the learned counsel argued that the informant who is alleged eye witness has not named the present applicant as assailant. My attention is drawn to the statements of other witnesses and it was contended that no

weapon was attributed to the applicant nor any over-tact is shown to have been done by him. According to learned counsel for the applicant though during investigation voluntary disclosure statement of applicant came to be recorded, no blood was found on the clothes recovered in pursuant to that. As such according to learned counsel for the applicant, applicant is entitled to bail.

3. As against this learned APP opposed the application, by contending that number of injures found on the person of deceased prima facie show that he was assaulted by several persons and name of the applicant is stated by eye witnesses to the incident.

4. The perusal of chargesheet shows that the incident in question is alleged to have happened on 16.8.2016, near lane No.93, Janata Vasahat. Perusal of F.I.R. goes to show that Prasad Jadhav who is brother-in-law of informant Sudhakar Vishnu Salekar, died due to homicidal death. The recitals in the F.I.R. shows that on 14.8.2015, Prasad Jadhav has informed him that he had assaulted Mohan Kagane (accused) and that said Mohan Kagane is angry with him. The informant further disclosed that on 16.8.2015, when he was going alongwith his sister, he saw Prasad Jadhav (since deceased) alongwith his relative Lahu Chavan, proceeding towards Janata Vasahat by Activa vehicle. The informant further disclosed that at about 5.30 p.m. he was returning with

his sister, he saw Mohan Kagane, Sachin Khulape, Pappu @ Krishna Sathe, Nitin Khulape, by encircling his brother-in-law Prasad Jadav, were assaulting him by dangerous weapon like Koyatas. The informant reported that when he tried to intervene, Mohan Kagane rushed on his person.

5. As against this, Ranjana Bharekar, who is sister of informant Sudhakar has stated that when she was proceeding with informant Sudhakar, she saw present applicant Lahu Chavan and his friends Mohan Kagane, Sachin Khulape and Pappu assaulting Prasad by encircling him. Statements of Riyaz Jamadar and Arjun Chinake also show that present applicant accompanied by co-accused encircled Prasad Jadhav and thereafter co-accused, gave blows of Koyta to Prasad Jadhav.

6. The brutality of the incident is reflected from the postmortem report which shows infliction of several injuries over the body of the deceased. The weapon used was Koyta. The brutal assault shocked the witnesses. The informant is the brother-in-law of the deceased. In this gruesome murder, he might have been taken over by the event missing to name the present applicant as one of the assailant. The omission to name the applicant is a factor which has to be considered at the time of trial and not at this stage. Moreover, sister of the informant, who was accompanying the informant so also independent witnesses have named the applicant attributing overtact to him in the crime in question. Prima

facie it is seen that the deceased was being assaulted by forming unlawful assembly by applicant and co-accused with common object of commission of his murder and as such precise role of the applicant in the assault becomes irrelevant. The offence is punishable with death penalty or life imprisonment. The eye witnesses have demonstrated complicity of the applicant in the crime in question. No case for bail is made out. Application is rejected.

[A. M. BADAR, J.]