

Anand

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

BAIL APPLICATION NO.789 OF 2016

1. Bhavesh Santosh Patil .Applicants
2. Aadesh Bapu Patil
3. Bhagwan Raghunath Madhvi

Vs.

The State of Maharashtra .Respondent

Mr.Tanmay Vispute i/b. H.P.Patel, Advocate, for
the Applicants

Mr.H.J.Dediya, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 01.07.2016

P.C.

. Heard learned Senior Counsel for the
Applicants and the learned APP for the
Respondent – State.

2. By this Application, the Applicants
seek their enlargement on bail in connection
with C.R.No.205 of 2015 registered with the
Bhiwandi Taluka Police Station, Thane(Rural),
for the alleged offences punishable under

Sections 302, 307, 143, 147, 148, 149, 336, 323, 504 of the Indian Penal Code and under Sections 3, 4(25) of the Arms Act.

3. The Complainant – Nityanand Sham Karbhari is the brother of deceased – Satyam. The incident is alleged to have taken place on 16.08.2015 at about 10.00 p.m.. According to the Complainant, Aatish Patil, Satish Madhvi, Satish Patil, Raju Madhvi, Raju Jadhav & Kiran Bhagat came to the spot and started abusing and assaulting the Complainant, the deceased and others. It is specifically alleged by the Complainant that the deceased – Satyam was assaulted by Raju Madhvi, Nitesh Patil & Aatish Patil.

4. Learned counsel for the Applicants submitted that the Applicants have not been named in the FIR. He submitted that only in the supplementary statement dated 17.08.2015, for

the first time, the Applicants have been named. He submitted that even otherwise, no overt act has been attributed to the Applicants nor are they alleged to have been armed with any weapon. He submitted that there is no recovery of any weapon/clothes at the instance of the Applicants.

5. Learned APP submitted that although the Complainant has not mentioned the names of the Applicants in the complaint, there are few witnesses, who have specifically stated that the Applicants were present at the spot, at the time of the incident. He does not dispute the fact that there is no recovery of any weapon/clothes at the instance of the Applicants.

6. Perused the papers. It appears that the principal allegations are as against the accused who have been named in the FIR. As far as the present Applicants are concerned, none of

the witnesses including the eye witnesses, have attributed any specific overt act to the Applicants nor are they alleged to have been armed with any weapon. There is no recovery of any weapon/clothes against the Applicants. Investigation is complete & charge-sheet is filed.

7. Considering the material on record against the Applicants, the Application is allowed and the Applicants are enlarged on bail on the following terms & conditions:

ORDER

- (i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs.20,000/- each with one or two sureties in the like amount;
- (ii) The applicants shall report to the investigating officer of the Bhiwandi Taluka Police Station, Thane(Rural) on the **1st Saturday of every alternate month** between **10.00 a.m. and 11.00 a.m.** till the conclusion of the trial;

(iii) The applicants shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicants shall inform their 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;

(v) The applicants to cooperate with the conduct of the trial;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants' 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.)