

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.641 OF 2016
IN
CRIMINAL APPEAL (ST) NO.258 OF 2016

Bhalchandra Baban Bhopi and others	Applicants
versus	
The State of Maharashtra	Respondent

Mr.G.S.Jadhav i/by Mr.Devendra D. Pawar for Applicants.

CORAM : S.J.KATHAWALLA AND PD.NAIK, JJ.
(Vacation Court)

DATE : 13th May 2016

PC :

1. This is an application for bail preferred by the Applicants for a temporary period during the pendency of their appeal. The Applicants have sought bail for a period of ten days between the period 13 May 2016 and 22 May 2016.

2. The Applicants have stated that the marriage of the daughter of Applicant no.1 namely Harshada has been fixed on 19 May 2016. The Applicant no.2 is the uncle of Ms.Harshada. It is further stated that the marriage of the sister of Applicant no.3 namely Pooja is fixed on 16 May 2016. It is submitted that

the Applicants may be released on bail for the above period to attend the marriage ceremonies as stated hereinabove. The Applicants have relied upon photocopies of invitation cards which are annexed to the application.

3. The Applicants are original accused nos.1, 2 and 4 in Sessions Case No.111 of 2012. By judgment and order dated 7 December 2015 passed by learned Additional Sessions Judge, Kalyan, the Applicants are convicted for the offence punishable under Section 302 read with Section 149 of Indian Penal Code, and they have been sentenced to suffer imprisonment for life. They are further convicted for the offences under Sections 143, 147 and 149 of Indian Penal Code.

4. The Applicants have preferred an appeal before this Court challenging the said judgment and order of conviction. Since there has been delay in preferring the said appeal, the Applicants have also preferred an application for condonation of delay. The said proceedings are pending before this Court.

5. However, the Applicants have moved this application urgently seeking temporary bail on the ground mentioned hereinabove. It is pertinent to note that the Applicants have filed the appeal in this court on 29 March 2016 and present application has been filed on 6 May 2016. The Applicants have thus filed this application at the last moment. Apart from that,

the Applicants are not entitled for temporary bail considering the fact that they are involved in a serious crime.

6. From the invitation cards annexed to this application, it is apparent that there are several close relatives of the Applicants, who will be in a position to attend the marriage ceremony. From the record, it can be seen that one Vishnu Bhopi, original accused no.5, who is the father of Applicant no.3 and Ms.Pooja Bhopi who is getting marriage on 16 May 2016, was absconding during the trial and he was arrested at the time when judgment in Sessions Case No.111 of 2012 was being delivered.

7. We are not inclined to grant temporary bail to the Applicants who are involved in serious crime. From the facts of the prosecution case in Sessions Case No.111 of 2012, in which the Applicants are convicted, it is apparent that on the ground of dispute of property, the Applicants are involved in the murder of two persons. On 27 November 2011, the accused arrived at the scene of offence, armed with weapons. Applicant no.1 was holding a spade in his hands and Applicant nos.2 and 3 were armed with choppers. The absconding accused Vishnu Bhopi (father of Applicant no.3) was also armed with a chopper. Accused no.3 was armed with a knife. On reaching the place of incident, they demanded documents from the first informant showing land transferred in their name. Applicant no.1 gave a blow of spade on the head of the deceased Devanand Mhaskar

and also assaulted the first informant on his head. Applicant no.2 Vishnu Bhopi assaulted Devanand Mhaskar with chopper. Applicant no.3 assaulted the deceased Vishnu Meher by chopper. The injured Devanand and Vishnu Meher who sustained severe injuries, have subsequently succumbed to the injuries.

8. It is also necessary to note that the complainant and other witnesses are residing in the area where the Applicants are proposed to attend the wedding ceremony. In the circumstances, it would not be proper to grant temporary bail to the Applicants who are likely to misuse the same. In view of these observations, we are not inclined to grant the prayer for temporary bail and hence, the application for temporary bail is rejected.

9. The observations made in this order are only for limited purpose of considering the prayers made in the present application.

(PD.NAIK, J.)

(S.J.KATHAWALLA, J.)

MST