

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

CRI. BAIL APPLICATION NO. 1030 OF 2016

Pradip @ Pappu Shivaji Balkwade ... Applicant.

V/s.

The State of Maharashtra ... Respondent.

Mr. Satyavrat Joshi, Advocate for the Applicant.

Mr. Arfan Sait, A.P.P. for the Respondent – State.

Head Constable-Mr.G.R.Dabhade, Paud Police Station, Pune Rural, is present.

CORAM : A. M. BADAR, J.

DATE : 13th JULY, 2016

P.C. :

1 Heard the learned counsel appearing for the applicant/accused. He submitted that only evidence against the applicant/accused as shown in the charge-sheet is his confessional statement to the police apart from discovery of the spot of incident.

2 Learned A.P.P. opposed the application by submitting that the case of the prosecution is based on the circumstantial evidence and after getting secret information, the applicant/accused came to be apprehended. His voluntary of statement resulted in disclosure of the spot on incident.

3 Perused the chargesheet. The incident in question is happened on 27th March, 2012. The FIR came to be lodged by injured victim-Mohansing Ramvishal Yadav on 28th March, 2012. On 29th March, 2012 informant-Mohansing succumbed to injuries. The FIR-cum-dying declaration of deceased-Mohansing points out that two unknown persons had assaulted him by means of bamboo sticks.

4 The present applicant/accused came to be arrested on 21st November, 2015 i.e. after more than three years. His statement came to be recorded by the concerned PSI and the same is annexed to the chargesheet. It is nothing but a confession made to the police officer by the applicant/accused and as such, cannot be looked into.

5 So far as the evidence of alleged disclosure of the spot of incident is concerned, memorandum of statement of the applicant came to be recorded on 23rd November, 2015 and it is shown that the spot of incident came to be discovered at the instance of the present applicant. In fact three years earlier i.e. on 28th March, 2012, spot panchanama was recorded and the investigator was well aware of the spot of the incident.

6 Considering the nature of evidence against the present applicant, he deserves to be released on bail and therefore, the following order :

ORDER

- i. The bail application is allowed.
- ii. The applicant/accused in Crime No. 48 of 2012 registered with the Paud Police Station, Pune Rural, Dist. Pune for the offence punishable under sections 302, 324 read with 34 of the Indian Penal Code at the instance of informant, be released on bail on executing PR Bond in the sum of Rs. 10,000/- and on furnishing solvent surety in the like amount.
- iii. As a condition of this order, the Applicant should co-operate the trial court in expeditious disposal of the trial.
- iv. In addition, Applicant/accused is directed that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade such person from disclosing such facts either to the Court or to any police officer and

that the applicant/accused shall not tamper with the prosecution evidence in any manner.

v. Applicant should not commit offence of similar nature in future.

vi. The application is disposed of accordingly.

(A. M. BADAR, J.)

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