

nsc.

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

CRIMINAL BAIL APPLICATION NO.1035 OF 2016

Sharad Maruti Satav	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION NO.512 OF 2016
(FOR INTERVENTION)
IN
CRIMINAL BAIL APPLICATION NO.1035 OF 2016**

Kishor D. Khanekar	...Intervener/Informant
--------------------	-------------------------

IN THE MATTER BETWEEN

Sharad Maruti Satav	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms.Anita A. Agarwal, for the Applicant.
Ms.P.P.Shinde, A.P.P for the Respondent-State
PSI – Vijay H. Pawar, Paud Police Station, Pune Rural.

***CORAM : REVATI MOHITE DERE, J.
DATE : 16th NOVEMBER, 2016***

P.C. :

1. Heard learned counsel for the applicant and learned APP.

2. This is the second bail application preferred by the applicant. The first bail application being Criminal Bail Application No.2005 of 2015 was rejected by this Court (Coram:Revati Mohite Dere,J.), on merits, vide order dated 1st April, 2016.

3. Learned Counsel for the applicant states that the reason for filing the second bail application and change of circumstance is, that the 164 statement of Kishor Khanekar (complainant) and Suresh Khanekar was not on record at the time, when the first bail application was rejected. She submitted that a perusal of the 164 statements of Kishor Khanekar (complainant) and Suresh Khanekar shows that they had not witnessed the actual assault on the deceased and as such there is a discrepancy and variance in the statements of the Kishor Khanekar (complainant) and Suresh Khanekar recorded by the police under Section 161 of Cr.PC and their statements recorded under Section 164 of Cr.PC. She submitted that even the MLC report of admission of the deceased to the Aditya Birla Hospital shows that the patient was found injured on the road with unknown history. She submitted that the patient was admitted by one Nilesh Marne and not by the complainant or Suresh Khanekar. She submitted that

considering the discrepancies in the statements of these witnesses coupled with the discrepancy in the Scorpio vehicle number i.e. vehicle number in the FIR is different from the vehicle seized, shows the falsity of the prosecution case. She submitted that considering the hostile relations between the parties, the applicant has been falsely implicated in the said case. She submitted that the applicant is the Sarpanch of the Village and that his family is dependent on him.

4. Learned APP opposed the bail application. She submitted that the discrepancy alleged is not such that it exonerates the applicant. She submitted that the statement of the Kishor Khanekar (complainant) and Suresh Khanekar, recorded under Section 164 of Cr.PC, also shows that the complicity of the applicant, inasmuch as, they have named the applicant and other co-accused in the said 164 statements. She submitted that there is recovery of 2 swords at the instance of the applicant and that there was motive for the applicant to commit the alleged offence.

5. Perused the papers. The complainant (Kishor Khanekar) in his complaint/FIR has stated that he had witnessed the incident of assault

on his brother (deceased) however, in his 164 statement he does not say so. Both, the complainant (Kishor Khanekar) and Suresh Khanekar in their 164 statement have stated that when they went near Bodke's residence and were waiting at a distance of 100 ft, they saw the present applicant - Sharad Maruti Satav, Shivaji Khengare, Anand Khengare and 4 others with blood stained swords and koyta in their hands. They have stated that the said accused including the applicant and others on seeing them sat in a Scorpio vehicle and sped towards Shelkewadi. They have stated that as they suspected something, they went towards the said place and saw Sandeep Khanekar (complainant's brother) lying on the road in an unconscious condition. They have stated that Sandeep had sustained injuries on his head, hands caused by sharp weapons and that his vehicle Splendor Motorcycle was lying on the road. The said witnesses have further stated that they stopped a Fortuner Car, belonging to one Machindra Ozarkar who was passing from the said place. According to them, Machindra Ozarkar, Anil Taware and Vinod Kemse were in the said vehicle. It is stated that Suresh Khanekar and others put Sandeep (deceased) in the said vehicle and took him to Aditya Birla Hospital, where he was admitted. The statements of Machindra Ozarkar, Anil Taware and Vindo Kemse show that they saw

the complainant and Suresh at the spot at around 6.30 p.m., where the deceased was lying on the road and that they stopped the vehicle, put Sandeep in their vehicle and took him to the Aditya Birla Hospital, where he was admitted. The said 164 statements do not in any way exonerate the applicant. Although, the said 164 statements show that the complainant and Suresh have not witnessed the actual assault on the deceased – Sandeep, nevertheless, the fact remains, that both, the complainant and Suresh have named the applicant and others, as having seen them at the spot, armed with blood stained swords and koyta. They have stated that on seeing them, the said persons sat in the Scorpio vehicle and sped towards Shelkewadi. The said 164 statements of the complainant and Suresh finds corroboration to the statements of Mr.Machindra Ozarkar and others. There is recovery of 2 swords at the instance of the applicant. Nothing much turns on the history given to Doctors on admission in the Hospital by Nilesh Marne, that the patient was found on road with unknown history as Nilesh is neither an eye witness nor a person who was present in the vehicle. The applicant is a Sarpanch and therefore the possibility of tampering with the witnesses cannot be ruled out.

6. Accordingly, the Application for bail is rejected and disposed of as such. However, the trial of the applicant is expedited. The trial Court shall make an endeavour to conclude the trial, as expeditiously as possible .

7. Needless to observe, that the trial court shall decide the case on its own merits, uninfluenced by the observations made in this order.

8. In view of the disposal of the Bail Application No.1035 of 2016, the Intervention Application being Criminal Application No.512 of 2016 does not survive and the same is also disposed of.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.