

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1041 OF 2015

Manish Pratap Salve ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. Milan Desai i/b. Ms. Saeeda Shaikh, for the Applicant.

Ms. Sharmila Kaushik, APP for Respondent – State.

Mr. Prabhakar Joshi (API), Crime Branch, Thane present.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **30th MARCH, 2016**

P.C.:

. The application is moved for bail. The applicant/accused is facing charges for the offences punishable under Sections 307, 143, 147, 149, 120(B) read with 34 of the Indian Penal Code and under Sections 3(1)(ii), 3(2), 3(4) of MCOC Act, 1999 and under Sections 3 read with 25(1)(b), 3(4) and 27(2) of Arms Act and under Sections 37(1) and 135 of Bombay Police Act in C.R. No. I-84 of 2012 registered with Kopari police station, Thane. The offence is registered at the instance of one Pravin Kanade on 13th July, 2012.

2. It is the case of the prosecution that on 13th July, 2012 when the complainant was in his office, his friend Rajesh Ghadge came there at about 8.45 p.m. and they were chitchatting. At around 9.00 p.m. he heard a sound of fire cracker and suddenly Rajesh Ghadge fell down. At that time, two persons arrived there holding revolvers. One person fired at Rajesh Ghadge and other person assaulted him with chopper. The person who fired at Rajesh Ghadge told the other person to cut the neck of Rajesh Ghadge. They warned the complainant and thereafter they ran away. It is the case of the prosecution that, the co-accused Ramesh Salve and the applicant/accused Manish Salve and his associates were having previous enmity with the victim as they belonged to different political parties. The victim had disputes on number of occasions with these persons. On 13th July, 2012 co-accused Ramesh Salve along with other co-accused attacked him. The victim was taken to the hospital and was treated there. The applicant/accused was arrested on 8th October, 2012. Hence, this bail application.

3. The learned counsel for the applicant/accused has submitted that the applicant is innocent. He has not committed any

offence. The evidence against him is not sufficient to raise doubt against him. He read over the statement of eye witness, the complainant Pravin Kanade. So also the statement of victim Rajesh Ghadge and the statement of Vilas Ghorpade and Etorin Buthelo. He submitted that the name of the applicant/accused Manish Salve is not mentioned in the complaint which is recorded on the same day i.e. 13th July, 2012. The name of the co-accused Raju Mahadik is mentioned as assailant. He submitted that the statement of the victim was recorded after four days of the incident and the victim has mentioned that the applicant/accused has assaulted him with chopper but this is an improvement made by him. He further submitted that the complainant Pravin identified the applicant/accused in T.I. parade who has assaulted the victim with chopper but, the T.I. Parade was conducted on 13th December, 2012. He further submitted that police constable Ghorpade did not identify the applicant in T.I. Parade. He submitted that the chopper is recovered at the instance of applicant. He submitted that the applicant/accused, his brother and the victim are belong to a hostile groups and there was continuous dispute between them since 2011. He submitted that the victim and the applicant/accused belong to different political groups and the name

of the applicant/accused is falsely implicated because of his brother who has shown as principal accused in the present case.

4. The learned prosecutor while opposing the bail application has relied on the statement of eye witness. She submits that in the T.I. Parade, the complainant Pravin Kanade and Etorin Buthelo have identified the applicant/accused and attributed the specific role that he has assaulted the victim with chopper. She further submitted that the victim has mentioned in his statement that the applicant/accused was armed with chopper and he assaulted him on his head. She relied on the injury certificate of the applicant/accused. She further relied on the affidavit of investigating officer PI. Mr. Nasir Ahemad Kulkarni and submitted that the investigating officer has mentioned in his affidavit that 7 cases are pending against the applicant/accused and all the cases are pertaining to Sections 363, 366, 342, 394, 506 and 324 of Indian Penal Code.

5. Perused the first information report and other relevant documents. The applicant/accused has a very bad criminal record. However, it is a fact that the prosecution case is that the

applicant/accused, his brother and the victim are hostile to each other. Earlier there were disputes between the principal accused Ramesh Salve and the victim. There is political rivalry between these two groups. On perusal of the statement of the complainant, it appears that the name of the applicant/accused Manish Salve is not mentioned. Admittedly, the complainant did not know anybody. However, the victim was conscious after the attack and he disclose the name of the assailants as Ramesh Salve, Raju Mahadik and others. The first information report was lodged on the same day of the incident. Thereafter, the supplementary statement of the complainant was recorded on 14th July, 2012. The name of the applicant/accused is not mentioned in the supplementary statement however, in the T.I. Parade which was conducted on 13th December, 2012 the complainant has identified the applicant/accused as an assailant. As per the case of the prosecution, the applicant/accused was arrested on 8th October, 2012. It is to be noted that the victim in his statement gave names of other two persons are also mentioned as Sagar and Raju who assaulted with chopper on the head of the victim. He has stated that Raju Mahadik has assaulted him with chopper and Ramesh Salve and the applicant/accused gave blow of chopper on his head. However,

the said statement is recorded on 17th July, 2012. There are different versions of the witnesses attributing role of assaulting with chopper to different persons. The police constable Ghorpade who was present there, his statement was recorded and in T.I. Parade he did not identify the applicant/accused as an assailant.

6. Considering all the above circumstances and as the applicant/accused is in prison since October, 2012, I am inclined to grant bail to the applicant on the following conditions.

- a) The application is allowed.
- b) The applicant/accused be enlarged on bail upon furnishing P.R. Bond in the sum of Rs. 1,00,000/- (One Lac) with one or two solvent sureties in the like amount subject to the following conditions.
- c) He shall not enter the jurisdiction of Thane city till conclusion of the trial except attending the Court dates.
- d) He shall not pressurize the complainant, victim and other witnesses and not to tamper with the evidence.
- e) He shall not indulge into any criminal activity, while on bail.

f) He shall make himself available and attend all the Court dates regularly.

g) Violation of any of the conditions imposed shall amount to cancellation of bail forthwith.

7. Bail application stands disposed of on above terms.

(MRS.MRIDULA BHATKAR, J.)