

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1183 OF 2016**

Ramesh Ratan Badekar ...Applicant

Versus

The State of Maharashtra ...Respondent

...

Ms Pranali Kakade i/b. Mr. Subhash Hylyalkar for the Applicant.

Mr. Arfan Sait, APP for the Respondent -State.

Mr. Pardeshi, API, Lonikalbhor Police Station, Present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 23rd September, 2016.

P. C. :

This is an application for bail filed by the aforesaid Applicant, who is an accused No.7 in Sessions Case No.370 of 2015 pending on the file of the learned Sessions Judge, Pune.

2. The Applicant had earlier filed bail application No.64 of 2016. The Applicant had sought leave to withdraw the said application simplicitor and accordingly by order dated 13th January, 2016 the application was dismissed as withdrawn. In the present application the Applicant has once again sought bail on the ground that there is no prima facie material to prove his involvement in the crime.

3. Ms Pranali Kakde, the learned counsel for the Applicant has submitted that the Applicant, has not played active role in assaulting the deceased Chaitanya Gawali. She has further submitted that the co-accused at whose instance recovery was made under section 27 of the Evidence Act has been released on bail by the Sessions Court. She further submits that the Applicant, is an elderly person of 50 years of age and that he is entitled for bail.

4. Mr. Sait, the learned APP for the Respondent -State submits that the FIR shows that the Applicant was one of the members of the unlawful assembly and that he was not only present at the place of the incident but had instigated the other accused to assault the deceased Chaitanya. He further submits that the deceased was 18 years of age and the post mortem report shows that 25 injuries were inflicted on the deceased. He submits that the *Koyta* (sickle), being the weapon of offence was recovered at the instance of the Applicant and there is prima facie evidence that the Applicant was involved in the crime which is heinous in nature. He further submits that the Applicant is involved in four other crimes and considering his criminal antecedents, the Applicant is not entitled for bail.

5. I have perused the records and considered the arguments

advanced by the learned counsel for the Applicant and the learned APP for the Respondent -State.

6. The records prima facie reveal that pursuant to the FIR lodged by one Sachin Kanchan, Crime No.65 of 2015 was registered at Lonikalbhor police station against the Applicant and others for offences punishable under sections 302, 329, 341, 143, 147, 148, 506 r/w. 149 and 109, 201 of the IPC and section 37(1) (3) and 135 of the Bombay Police Act and section 4(25) of the Arms Act.

7. A perusal of the FIR prima facie reveals that on 23.2.2015 there was a quarrel between the deceased-Chaitanya Gawali and Rushi Badekar, the son of the Applicant, and some other co-accused. On 28.2.2015 at about 9.30 a.m. the Applicant, his son and the other accused formed an unlawful assembly armed with weapons and assaulted said Chaitanya Gawali. The FIR prima facie reveals that the Applicant herein had instigated the other co-accused to assault/kill the deceased Chaitanya. The FIR further reveals that other co-accused inflicted several stab injuries on Chaitanya and after he was unconscious, the Applicant and the other co-accused had left the place of the incident.

8. The FIR prima facie reveals that the Applicant herein was the member of the unlawful assembly and that he was involved in instigating the other co-accused, to assault / kill Chaitanya. The material on record further reveals that the co-accused had inflicted several injuries on the deceased Chaitanya, who was barely 18 years of age. The post mortem report reveals that Chaitanya had sustained 25 injuries including multiple stab wounds, incised wounds on the vital part of the body. The Doctor has opined that death of Chaitanya was due to traumatic and haemorrhagic shock as a result of multiple injuries. The material on record thus, prima facie reveals that said Chaitanya was brutally murdered.

9. The FIR prima facie indicates that the *Koyta*, which was used as a weapon of the offence, by one of the co-accused, had fallen at the place of the incident and that the Applicant had taken the said *Koyta* while leaving the scene of offence. The material on record prima facie reveals that subsequently the said *Koyta* was recovered pursuant to the disclosure statement made by the Applicant. The material on record therefore, prima facie shows the involvement of the Applicant in committing the heinous crime.

10. The learned APP has placed on record a report, which

prima facie indicates that the Applicant is involved in four other crimes. Considering the gravity of the offence as well as the past antecedents of the Applicant, in my considered view the Applicant is not entitled for bail. Furthermore, the eye witnesses are not yet examined and releasing the Applicant on bail at this stage can hamper the trial.

11. Under the circumstances and in view of discussion supra, the application is dismissed.

(ANUJA PRABHUDESSAI, J.)