

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1238 OF 2015

Sanjay Damu Dhondge & Anr.	...	Applicants
Vs.		
The State of Maharashtra	...	Respondent

Mr. C.K. Pendse, Adv. i/b. Prashant Jadhav, Adv. for the applicants.
Mr. Arfan Sait, APP for the State.
Mr. Kantilal P. Koli, PN/37/ Malegon Taluka P.S. Present.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 4th January, 2016.

P.C. :

1. This is an application for bail filed by the aforesaid applicants who have been arrested in Crime No.I-53 of 2015 registered at Malegaon Taluka Police Station for offences punishable under Section 302, 147, 148 & 149 of the IPC.

2. The aforesaid crime was registered pursuant to the FIR lodged by Ajay Devman Dhondge wherein he has alleged that on 23rd February, 2015 at about 5 pm the applicants along with co-accused had formed an unlawful assembly and assaulted Dattu Pawar, the husband of co-accused Varsha Pawar, by means of iron rods, sticks etc. The applicants were arrested on 3rd March, 2015. Upon the

completion of the investigation the chargesheet was filed before JMFC, Malegaon and case was committed to Sessions Court, Malegaon. The applicants had filed bail application before the Sessions Court, Malegaon which was rejected by the learned Sessions Judge by an order dated 2nd June, 2015. Hence the present application.

3. Mr. Pendse, the learned counsel for the applicants submitted that there was matrimonial dispute between the deceased and his wife Varsha and despite the divorce, the deceased Dattu Pawar had gone to the house of Varsha and abused and assaulted her and his family members. He has submitted that Varsha and his family members had also sustained injuries in the said scuffle. The learned counsel for the applicant has further submitted that the deceased was an alcoholic and had not died due to the injuries inflicted by applicants.

4. Mr. Sait, the learned APP submitted that the FIR as well as the statement of the eye witness Ramesh Dhondge prima facie reveals that the applicants had assaulted the deceased by means of iron rods and thereafter tied him to a bullock cart. He has further submitted

that post mortem report reveals that the deceased had sustained 19 injuries, which fact prima facie indicates that the applicant had intention of causing death of said Dattu Pawar. The learned APP has submitted that the offences are of serious nature and hence the applicants are not entitled for bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. The records prima facie reveal that the deceased was married to one Varsha Pawar. The matrimonial dispute between the deceased and his wife Varsha had led to filing of the divorce proceeding, which was allowed by order dated 14th November, 2014.

6. The FIR as well as the statement Ramesh Dhondge prima facie reveals that on 23rd February, 2015 the deceased Dattu Pawar had gone to the house of Varsha. He was under the influence of alcohol. He had abused Varsha and her family members. The statement of Ramesh also prima facie reveals that there was scuffle between the deceased and Varsha. The father of Varsha had lodged a complaint dated 23rd February, 2015 alleging that said Dattu Pawar had assaulted, abused and threatened him, his wife and Varsha. The

medical certificates placed on record by the applicants also reveal that Varsha, Sangeeta and Somnath had sustained injuries.

7. The records thus prima facie reveal that the deceased had gone to the house of the applicants and had abused and threatened them. There was scuffle between the deceased, the applicants and the other co-accused. The records also reveal that the deceased was under the influence of alcohol. The medical certificate reveals that the deceased had not sustained injuries on the vital part of the body, on the contrary the medical certificate prima facie reveals that the death of Dattu Pawar was due to cardio respiratory failure due to poly trauma alcoholism.

8. In the light of the above facts and circumstances the applicants are entitled for bail. Hence the application is allowed on the following terms and conditions.

1. The applicants be released on bail on furnishing bail bond of Rs.50,000/- (Rupees Fifty thousand only) each with one surety in the like amount to the satisfaction of the learned Sessions Judge, Malegaon.

2. The applicants shall not interfere with any of the witnesses and shall not tamper with the evidence in any manner.
3. The applicants shall appear before the Sessions Court, Malegaon on each and every date of hearing and as and when directed.

(ANUJA PRABHUDESSAI, J.)