

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1326 OF 2016

Shri Kiran alias Banti Bhaurao Nagre

Applicant

Vs.

The State of Maharashtra ...

Respondent

Ms. Sulbha Arun Dhamale, Advocate for the applicant.

Ms. Veera Shinde, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV, J.

DATE : 29th November, 2016.

P.C.

Heard. This is an application under Section 439 of Cr.P.C.

The applicant herein is arrested on 17.3.2015 in Crime No.67 of 2015 registered at Nashik Road Police Station on 12.2.2015 for the offences punishable under Sections 302, 307, 324, 143, 147, 148, 149, 427, 323, 504, 506 of the Indian Penal Code, under Section 4/25 of the Arms Act and under Section 135 of the Bombay Police Act. The investigation is completed and charge-sheet is filed on 5.6.2015.

2. It is the case of the prosecution that on 12.3.2015, Kumar

Narayan Barve lodged a report at the police station alleging therein that on 11.3.2015, he had received a phone call from his brother Saurav Barve when he was at Jail Road Dnyaneshwart Nagar, Teen Mandir area, his friend Rajendra Bhalerao had quarreled with Pratik Barve and his friends. The first informant was scared and therefore, he immediately reached the spot as informed by his brother Saurav. He witnessed the quarrel between the two groups. He had seen Pappu Ghadge and Pratik Barve armed with deadly weapons like sickle and others were having iron rods. Pappu Ghadge assaulted the first informant and Pratik Barve assaulted his brother. The phone was received by an unknown person. Kumar was informed that his brother was admitted in Bitco Hospital. He rushed to Bitco Hospital and then he was declared dead. The supplementary statement of Kumar was recorded on 30.3.2015. In the said statement, he has specifically stated that the weapons were brought by Pappu Shinde and the applicant while other boys were assaulting with fist and kick blows. There are eye-witnesses to the incident such as Aman Bhalerao who has specifically stated that on the day of incident in Teen Mandir there was a quarrel between two rival groups and each one was trying to claim supremacy in the said area. It is specifically stated that Pratik Barve was accompanied by Gautam, Pappu Ghadge and others. When they were quarrelling, Pappu Shinde and the

present applicant had brought deadly weapons like sickle and given it to their friends with which deceased was assaulted.

3. The learned APP submits that there is a statement of Matesh which was recorded under Section 164 of Cr.P.C. He has specifically given the role of all the accused and it shows that he has brought the weapons from the house of Pappu Shinde and had given it to the accused and had participated in the incident.

4. The learned counsel for the applicant submits that the only role attributed to the present applicant is that he had brought the weapons and given it to the friends at the instance of Poppu Shinde and therefore, he cannot be prosecuted for the offence punishable under Section 302 of the Indian Penal Code. It is submitted that the co-accused Sachin Kalamkar has been enlarged on bail by the Sessions Court and the said order has attained finality. However, the applicant does not deserve to be enlarged on bail by virtue of doctrine of parity.

5. Upon perusal of the post-mortem notes, it is clear that the cause of death was sub-dural haemorrhage due to trauma to head. Taking

into consideration the incriminating material against the present applicant and the role attributed to him, this Court is not inclined to grant bail.

6. The application being sans merit, stands rejected.

(SMT. SADHANA S.JADHAV, J.)