

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1489 OF 2015

Sandeep Sadhu Kondalkar	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Arun Rajput, Adv. i/b. Anjali Patil, Adv. for the applicant.
Mrs. G.P. Mulekar, APP for the State.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 20th January, 2016.

P.C. :

1. This is an application for bail filed by the aforesaid applicant who is facing trial in Sessions Case No.613 of 2014 pending on the file of Addl. Sessions Judge, Pune.

2. The case of the prosecution in brief is that on 4th May, 2014 the applicant along with the co-accused quarreled with Datta Deokar and thereafter they assaulted him by means of iron rods, sword and sickle (Koyta). The specific allegations against the applicant are that he had inflicted injury on the head of the complainant Datta Deokar by means of sickle. The applicant was arrested on 5th May, 2014. The aforesaid crime was registered

pursuant to the FIR lodged by Datta Deokar. The crime was investigated and chargesheet was filed and the case being sessions triable it was committed to Sessions Court, Pune. The applicant herein had filed application for bail which was dismissed by the Addl. Sessions Judge, Pune vide order dated 16th July, 2015.

3. Mr. Rajput, the learned counsel for the applicant has submitted that the other co-accused have already been granted bail by this Court and that the applicant is also entitled for bail on the ground of parity.

4. Mrs. Mulekar, the learned APP for the State has submitted that the statements of the injured and the other witnesses prima facie reveal that the applicant had inflicted injury on the head of the complainant by means of sickle. She has submitted that the applicant has criminal antecedents and hence is not entitled for bail.

5. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties. The FIR lodged by Datta Deokar prima facie reveals that on 4th May, 2015, he had questioned the applicant as to why he was troubling Anil Rathod.

There was an altercation between them over the said issue and thereafter the applicant and others assaulted him by means of iron bars, sickle, sword etc. The complainant has alleged that the applicant had inflicted an injury on his head by means of sickle / Koyta. The statement of the other witnesses also prima facie corroborates the statement of the complainant. The medical certificate prima facie reveals that the complainant had sustained CLW over his left parieto occipital region and he was hospitalised on 4th May, 2014 and discharged on 6th May, 2014. The medical certificate does not prima facie indicate that the injury sustained by the complainant is covered by Section 320 of the IPC. There is also no prima facie material on record that the said injury was sufficient to cause death in the ordinary course of nature. Thus being the case there is no prima facie material on record to link the applicant with crime either under Section 326 or 307 of the IPC.

6. The applicant is in custody since 5th May, 2014. The chargesheet is already filed and the presence of the applicant is no longer required. The applicant is otherwise a permanent resident of Pune and there is no possibility of the applicant absconding.

7. Considering the above facts and circumstances, the application is allowed on the following terms and conditions.

- (i) The applicant shall be released on bail on furnishing P.R. bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one or two sureties in the like amount to the satisfaction of the Addl. Sessions Judge, Pune.
- (ii) The applicant shall not tamper with the evidence or influence complainant and witnesses in any manner.

(ANUJA PRABHUDESSAI, J.)