

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1850 OF 2016

Mr. Shantaram N. Rawate & Anr. ...Applicants
Versus

The State of Maharashtra ...Respondent

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Smt. Gauri Jadhav for the Applicants.
Mr. Vinod Chate, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 18th NOVEMBER, 2016

P. C. :

This is a second application for bail filed by the aforesaid Applicants, who have been arrested in C.R. No.130 of 2014 registered at Junnar Police Station, for the offences punishable under sections 143, 144, 147, 148, 302, 323, 324, 447, 504 and 506 r/w. 149 of the IPC. The previous bail application being Bail Application No.1843 of 2015 was withdrawn simplicitor.

2. The case of the prosecution in brief is that on 30.10.2014 at 11.00 a.m. the Applicants and the other co-accused formed an unlawful assembly and entered the paddy field of Yashwant Radhe armed with weapons and assaulted Maruti Radhe and thereafter committed his murder. The Applicants and the other co-accused are also alleged to

have assaulted, abused and threatened Yashwant Radhe and others. Pursuant to the FIR lodged by Yashwant Radhe, Crime No.130 of 2014 was registered and the Applicants were arrested on 31.10.2014. Upon completion of the investigation chargesheet was filed, and case has been committed to the Sessions Court, Khed being Sessions Case No.11 of 2015.

3. Smt. Jadhav, the learned counsel for the Applicant submitted that the Applicants are in custody since last two years and that since the investigation is completed, their presence is no longer required in custody. She further submitted that some of the accused are released on bail and that the Applicants are entitled for bail on the ground of parity. The learned counsel for the Applicants submits that there is no prima facie material to indicate that the Applicants were involved in committing murder or they had an intention of causing death of Maruti Radhe. She has submitted that the Applicants are ready to abide by all the terms and conditions imposed by the Court.

4. Mr. Chate, the learned APP submits that there are specific allegations against the Applicants to show that they are involved in committing murder of Maruti Radhe. He further submits that the offence is of serious nature and therefore the Applicants are not

entitled for bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the Applicants and the learned APP for the Respondent -State.

6. The FIR lodged by Yashwant Radhe prima facie reveals that on 30.10.2014 the Applicants and the co-accused had entered his paddy field and assaulted Maruti Radhe and others. The FIR specifically states that the Applicants herein were involved in inflicting blows of sticks on the head and neck of Maruti Radhe. The FIR further indicates that as a result of said incident Maruti Radhe had sustained head injuries and that he had expired as a result of the injuries sustained in the said incident. The statements of other eye witnesses viz. Housabai Radhe, Kalabai Radhe and Anjana Radhe, etc. also prima facie reveal that the Applicants herein had inflicted blows of stick on the head and neck of Maruti Radhe. The post mortem report also prima facie reveals that said Maruti had sustained subdural hematoma over left fronto parieto temporal region of about 150 cc. Subarachnoid hemorrhage all over brain matter and hemorrhagic contusion over left temporal lobe of diameter 03 cm. The Medical Officer has opined that

the death of Maruti was due to head injury associated with blunt trauma to neck. The post mortem report therefore prima facie indicates that said Maruti had expired as a result of head injuries. The material on record thus prima facie reveals that the Applicants herein were involved in inflicting head injuries on Maruti Radhe, which had resulted in death of Maruti Radhe.

7. The role attributed to the Applicants is not similar to the role attributed to the co-accused, who have been released on bail. The case of the Applicants stands on different footing. They are not entitled for bail on the ground of parity.

8. The offence is of serious nature, which is punishable with death or imprisonment for life. Hence the fact that the Applicants are in custody for a period of two years would not per se be a ground to release the Applicants on bail. Considering the nature of the offences and also considering the fact that the eye witnesses are yet to be examined, in my considered view, the Applicants are not entitled for bail at this stage. Hence, the application for bail is rejected.

(ANUJA PRABHUDESSAI, J.)