

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1935 OF 2015**

1. Shubham Dattatray Barde,	
2. Mahesh Maruti Khot,	
3. Abhishek @ Banti Sayaji Chavan	...Applicants
Versus	
State of Maharashtra	...Respondent

Mr. Abhijeet A. Desai with Ms. Vrushali Maindad for the Applicant

Mrs. G. P. Mulekar, A.P.P for the Respondent-State

Mr. Kishor Naik, Assistant Police Commissioner, presently at Cyber Crime Division, is present

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 21st APRIL, 2016

P.C. :

1. Heard learned Counsel for the applicants and the learned A.P.P for the State.

2. By this application, the applicants seek their enlargement on bail in connection with C.R. No. 305 of 2014 registered with the Hadapsar Police Station, for the alleged offences punishable under Sections 302, 307, 143, 147, 148, 149, 120-B, 153-A of the Indian Penal Code.

3. The incident has taken place on 2nd June, 2014 at about 8:30 p.m. The complainant is the brother of the deceased-Sheikh Moseem. He has stated that when Sheikh Moseem was returning home after Namaaz, 20 to 25 unknown persons came towards him with hockey sticks, bats, stumps and stones and started assaulting him with hockey sticks, bats, stumps and stones, pursuant to which, Sheikh Moseem succumbed to the injuries. It is alleged that at the same time, two other persons also received injuries i.e. Amin Harun Shaikh and Ejaj Bagawan.

4. Learned Counsel for the applicants submits that there is no evidence to connect the applicants with the alleged offence. He submits that the applicants are original accused Nos. 5, 20 and 21. According to him, although there are four eye witnesses to the said incident, none of the eye-witnesses have identified the said applicants. He submits that the only allegation as against the applicants is that they were seen on motorcycles near the spot, after the incident by PI Bhushan Pawar, PC Nitin Wagh and PC Pramod Darade. He submitted that there is an alleged recovery of a stump at the instance of the accused No. 5 i.e. applicant No. 1 Shubham

Barde, however, no blood stains were found on the said stump. He submits that there are no antecedents *qua* any of the applicants.

5. Learned A.P.P fairly states that the only allegation against the applicants is that they were seen after the incident by the aforesaid three police witnesses on the motorcycles. She does not dispute the fact, that there are no antecedents *qua* the applicants. She submits that the clothes of the applicant No. 1 – Shubham Barde, although were recovered at his instance, the Chemical Analyser's report is inconclusive.

6. Perused the papers. Although, there are four eye-witnesses to the said incident, none of the eye-witnesses have identified the applicants. The recovery panchnama of the stump, at the instance of the applicant No. 1, shows that there were no blood stains on the same. The statements of Bhushan Pawar, Nitin Wagh and Pramod Darade only show, that each of them had seen some of the applicants, after the incident, on motorcycles. There are no antecedents *qua* the applicants. Investigation is complete and charge-sheet is filed. Considering the aforesaid, the application is allowed

and the applicants are enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- each, with one or two sureties in the like amount;
- (ii) The applicants shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 11:00 a.m till the conclusion of the trial;
- (iii) The applicants shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicants shall inform their latest places of residence and mobile contact numbers within two weeks of their release, and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

- (v) The applicants to cooperate with the conduct of the trial;
 - (vi) An undertaking to the aforesaid clauses (ii) to (v) shall be filed by the applicants, in the trial Court, within two weeks after their release;
 - (vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants' bail.
7. The Application is allowed in the aforesaid terms and is accordingly disposed of.
8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.