

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2005 OF 2015**

Sharad Maruti Satav	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION NO. 871 OF 2015
IN
CRIMINAL BAIL APPLICATION NO. 2005 OF 2015**

Kishor Dyaneshwar Khanekar	...Intervener
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IN THE MATTER BETWEEN :

Sharad Maruti Satav	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mrs. Anita Agarwal for the Applicant

Mr. Y. M. Nakhwa, A.P.P for the Respondent-State

Mr. Satyam Nimbalkar with Mr. Hrishi Ghorpade for the Intervener

CORAM : REVATI MOHITE DERE, J.
FRIDAY, 1st APRIL, 2016

P.C. :

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

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 227 of 2014 registered with the Paud Police Station, Pune, for the alleged offences punishable under Sections 302, 143, 147, 148, 149 of the Indian Penal Code and under Section 4(27) of the Arms Act.

3. The complainant Kishor Khanekar is the brother of the deceased and an eye-witness to the incident of assault. He has alleged that on 16th October, 2014 at about 6:00 p.m in the evening, he saw a Scorpio Jeep bearing No. 3232 standing at Village Khamboli and saw the present applicant along with Shivaji Khengare, Ananda Khengare and 3 to 4 unknown persons, assaulting his brother Sandeep on his head with swords. He has stated that on seeing him, the said persons fled in the aforesaid Scorpio Jeep. Thereafter, he stopped another vehicle in which his brother Sandeep was taken to Aditya Birla Hospital, where on admission, he was declared dead.

4. Learned Counsel for the applicant submits that the applicant is the sarpanch and has been falsely implicated because of the dispute

between the two groups i.e. complainant's side and the applicant's side. She submitted that it is doubtful, whether the said incident of assault on the deceased was witnessed by the complainant and one Suresh. In support of her submission, she relied on page 12 of the application, which is the MLC intimation of Aditya Biral Memorial Hospital. She submitted that the said Certificate shows that the deceased was brought by one Nilesh Marne and not by the complainant and that, it is stated that the patient was found lying on the road side. According to her, if the complainant had accompanied his deceased brother, there was no reason for the same to be recorded in the certificate. She also submitted that the applicant has been falsely implicated as the applicant had lodged a case as against the complainant and others in 2012, alleging an offence punishable under Section 307 of the Indian Penal Code. She submitted that the co-accused (i.e. Shivaji Khengare and Ananda Khengare), who have been named in the FIR and who have been attributed a similar role, have been enlarged on bail by the Sessions Court. She submitted that the vehicle in which the applicant and others are alleged to have absconded, did not belong to the applicant, inasmuch as he had sold the said vehicle, much prior to the incident to one Rajendra Marne. She submitted that Ravindra Marne, in his statement, has

stated that his Scorpio was lost, however, two months prior to the incident, the same was found and that he had taken custody of the jeep. He has also stated that the jeep was being used by him and he had not given the same to any person to use it.

5. Learned A.P.P opposed the bail application. He submitted that the complainant in his FIR has set out in detail the motive for the applicant to cause the alleged assault. According to him, the said incident was witnessed by the complainant and his friend Suresh. He stated that the incident has taken place in broad daylight and that the nature of injuries sustained by the deceased are consistent with the ocular evidence. He relied on the injury certificate which is on page 13 of the application. He also submitted that there is a recovery of two swords at the instance of the applicant.

6. Perused the charge-sheet. The complainant is also an eye-witness to the said incident, who has disclosed not only the motive but has also spelt out the manner in which deceased Sandeep was assaulted by the applicant and others. He has specifically stated that soon after, he arrived

at the spot along with Suresh Khengare, he witnessed the assault on his brother and that the accused, on seeing them, fled from the spot. He has stated that thereafter, he stopped a jeep, so that, his brother could be taken to the hospital. Both the eye-witnesses have stated that the applicant and two other named accused and unknown persons assaulted the deceased with a sword on his head and the injury certificate shows that he was assaulted by a sharp weapon and that the right side of the brain matter was exposed; that there was an injury on the upper limb and the bone was exposed and that there was a deep lacerated wound over the right cheek, extending from right mouth of angle to right ear and his left hand finger were amputated. The statement of Suresh who was also present on the spot along with the complainant is consistent with the statement of the complainant. It appears that there are cross cases filed by the parties, and hence, the applicant had motive to cause the alleged assault. There is also recovery of swords at the instance of the applicant.

7. Considering that a specific overt act has been attributed to the applicant and that he has been named in the FIR; and the injuries sustained by the deceased which are consistent with the ocular evidence, the

statement of Suresh, this is not a fit case to enlarge the applicant on bail. Accordingly, the application is rejected.

8. Perused the orders granting bail to Shivaji Khengare and Ananda Khengare on bail, passed by the Sessions Court.

9. Issue show cause notice, returnable on 25th April, 2016 to Shivaji Khengare and Ananda Khengare - original accused Nos. 1 and 2 respectively, as to why their bail should not be cancelled.

10. In the meantime, the trial is expedited. Application is disposed of accordingly.

11. In view of the above, intervention application being Criminal Application No. 871 of 2015 does not survive. The same stands disposed of.

12. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.