

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1954 OF 2016

Gurunath Pandharinath MhatreApplicant

V/s.

The State of MaharashtraRespondent

WITH
CRIMINAL APPLICATION NO. 890 OF 2016
IN
CRIMINAL BAIL APPLICATION NO. 1954 OF 2016

Ranjana Krishna PatilIntervener

IN THE MATTER BETWEEN

Gurunath Pandharinath MhatreApplicant

V/s.

The State of MaharashtraRespondent

Mr. N. N. Gawankar i/b Mr. M. N. Gawankar Advocate for Applicant.
Mr. Manoj Bhatt for Applicant in Application No. 890 of 2016
Mr. Deepak Thakur APP for the State.

CORAM : A. S. GADKARI, J.
DATED : 24th OCTOBER, 2016.

PC :

1) This is an application under section 439 of the Code of Criminal

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Procedure, 1973 for bail in CR No. I-218 of 2015 registered with Bhiwandi Taluka Police Station, District Thane under sections 302, 307, 326, 341, 120(B), 143, 147, 148, 149, 504, 506 of the Indian Penal Code and under section 4 & 27 of the Indian Arms Act. Now it is culminated in Sessions Case No. 24 of 2016.

2) Heard the learned counsel for the applicant, the counsel for original complainant/intervener and the learned APP and also perused the charge-sheet annexed to the application.

3) The prosecution case in brief is that, there were disputes between the group of deceased Krushna K. Patil and his family members on one hand and the applicant and co-accused on the other hand over the landed property. The complainant is Ranjana K. Patil, the wife of the deceased. The incident in question has taken place on 4th September, 2015 at about 11.30 a.m. She has alleged that when her son -Vishwas, his wife – Sunita and their son were going to Bhiwandi to a Doctor along with Bajrang Ananda Patil, in their car. They were obstructed by a tempo which was standing nearby. The said tempo belonged to one Anil Sadanand Patil. According to the complainant, Vishwas and Bajrang asked Anil to move his tempo, which was standing in the middle

of the road, so that they could proceed. However, instead of moving the tempo aside, Anil started arguing with Vishwas, as a result of which there was an altercation between them. She has stated that in order to avoid any further argument/altercations, Vishwas returned to home. According to the complainant, when Vishwas and Bajrang returned home, Ajay Patil, Vijay Patil, Lakhan Patil and Nitesh S. Patil came in front of their house and started abusing and assaulting Vishwas and Bajrang. She has stated that she alongwith her daughters-in-law mediated and resolved the fight. She has further stated that all the accused threatened them and went behind the complainant's house where the tempo was parked and made phone call to some person. That within short time, Ajay Patil came with his supporters Gurunath P. Mhatre (applicant), Tushar Ananta Gaikar, Anil Patil, Tulsiram Patil, Sadanand Patil and 4 to 5 other persons on the spot. The said persons are stated to be armed with choppers, swords, iron rods, wooden logs etc. She has further stated that when she was standing and watching all this, she saw her husband returning home on his motorcycle. She has stated that all the accused stopped him, and that Ajay Patil assaulted her husband with a chopper on his chest. She has further stated that on seeing the assault, she

started shouting, pursuant to which, Vishwas, Bajrang, Vicky, Dilip, Manik, Manohar and Gajanan ran to the spot. She has stated that on seeing them, Gurunath Mhatre (applicant) exhorted “मारा साल्यांना” pursuant to which the accused persons started assaulting them. She has alleged that Vijay Patil assaulted Manik with a chopper on his stomach; that when Ajay Patil assaulted Manik with a chopper, Manohar came to save him, but Ajay Patil also assaulted him with a chopper; that Lakhan Patil also assaulted Manohar with a wooden log; that Nilesh assaulted Dilip on his head with a scythe; that Gurunath Mhatre (applicant) assaulted Bajrang with a sword; that Tushar Gaikar assaulted with a sword; that Sadanand Patil was armed with a wooden log, Anil Patil with a chopper and Tulshiram Patil with a sickle; and that 4/5 others accompanying them were armed with a scythe and wooden logs. She has stated that all assaulted them. In the said incident, Krishna Patil, the husband of the complainant succumbed to the injuries and 4 persons viz., Bajrang, Dilip, Manik and Manohar were injured. After completion of investigation, the police have submitted charge-sheet.

4) The learned counsel for the applicant submitted that the injury which is alleged to have been caused by the applicant to the injured witness namely

Bajrang Patil is trivial in nature and cannot be termed as life threatening injury. He submitted that, only because section 149 of the Indian Penal Code is invoked, applicant cannot be held to be responsible for an offence as contemplated under section 302 and 307 of the Indian Penal Code. He further submitted that the injury certificate which is annexed on page 85 of the present application is without any serial number and there is interpolation in the date of the said certificate. He submitted that there is every possibility that the said injury certificate might have been tampered with. He submitted that there is a cross complaint registered by Sadanand Patil, one of the family member of the applicant wherein it is stated that injured witness namely Bajrang was holding a sword at the time of the said incident and therefore it is not probable that the said injured witness Bajrang would suffer injury on web space in between ring and middle finger. He submitted that the co-accused namely Tushar Gaikar has been released on bail by this Court vide order dated 29/06/2016. That as on today, charge-sheet is filed and no purpose will be served by further detaining the applicant in jail and therefore, prayed that the applicant be enlarged on bail.

Per contra, the learned APP vehemently opposed the application and

prayed that present application may be rejected. The learned counsel for the intervener supported the arguments of the learned APP and prayed that the present application may be rejected.

5) The F.I.R. itself would reveal that applicant was instrumental in instigating the other accused persons in committing assault on deceased Krishna Patil and other injured persons. The material in the form of statements of witnesses on record would clearly indicate that the applicant by use of sword has assaulted Bajarang Patil who has suffered the said injury. The role attributed to the applicant is not only of assault on Bajarang Patil with sword but the applicant was instrumental in instigating the co-accused persons in committing the assault on the deceased and other injured persons. The complicity of the applicant in the present crime is apparent.

It is to be noted here that the bail application of co-accused Nitin Shelke, who has been assigned with the role of assault with a wooden log on Manik has been rejected by this Court by its order dated 29/06/2016.

6) After taking into consideration the material available on record, a strong *prima facie* case against the applicant is made out by the prosecution and therefore in view of this Court, the applicant does not deserve to be

released on bail and accordingly his application for bail is rejected.

7) In view of the above order Criminal Application No. 890 of 2016 does not survive and is disposed off accordingly.

(A. S. GADKARI, J.)