

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.2257 OF 2015
(For Bail)

Maruti Gyanba Saste .Applicant

Vs.

The State of Maharashtra .Respondent

WITH

CRIMINAL APPLICATION (ST) NO.68 OF 2016
(For Intervention)

IN

CRIMINAL APPLICATION NO.2257 OF 2015
(For Bail)

Prasad Ashok Jadhav .Intervenor/
Complainant

IN THE MATTER BETWEEN

Maruti Gyanba Saste .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Rajiv Patil, Senior Counsel i/b. Mr.PM.Patil, for the Applicant
Smt.Veera Shinde, APP, for the Respondent – State

Ms Naima Shaikh i/b. Mr.Khan Abdul Wahab, Advocate, for the
Intervenor/Complainant

CORAM : SMT.ANUJA PRABHUDESAI, J.

DATE : 16.02.2016

PC.

. This is an application for bail filed by the aforesaid Applicant, who is facing trial in S.C.No.386 of 2015 pending on the file of the learned Additional Sessions Judge, Pune. The said case arises from C.R.No.26 of 2015 registered with the Jejuri Police Station, Pune(Rural) for the alleged offences punishable under Sections 120B, 201 & 302 of the Indian Penal Code.

2. One Ashok Bajirao Jadhav was found to be murdered on 08.02.2015. The son of the deceased, Prasad Ashok Jadhav had lodged a FIR against some unknown persons. Pursuant to the said FIR, the aforesaid crime came to be registered against the Applicant and the other co-accused. The Applicant and others were initially arrested on suspicion. The investigation revealed their involvement and accordingly, after completion of investigation, charge sheet was filed against the Applicant and the other co-accused. The case being sessions triable, same has been committed to the Court of Sessions, Pune. The Applicant had filed an application for bail which has been

dismissed by the learned Additional Sessions Judge, Pune.

3. Mr.Patil, the learned Senior Counsel for the Applicant has submitted that there is no prima facie material on record to show the involvement of the Applicant in the said crime. He has submitted that the material relied upon by the prosecution can at the most raise suspicion and is not sufficient to link the Applicant with the crime. He, therefore, contended that the Applicant is entitled for bail.

4. Ms Shaikh, the learned counsel for the Intervenor/Complainant and Mr.Nakhwa, the learned APP have submitted that the statements of the witnesses prima facie show that the Applicant herein had threatened to cause death of the deceased and that the deceased always feared for his life at the hands of the Applicant herein. It is further submitted that the incident had occurred at a Dhaba which is owned by the Applicant. It is further submitted that the son of the Applicant is one of the main accused involved in committing murder of said Ashok Jadhav and all these circumstances prima facie prove the involvement of the Applicant in

committing the said crime.

5. I have perused the records and the submissions advanced by the learned Senior Counsel for the Applicant, the learned counsel for the Intervenor and the learned APP for the respondent – State.

6. A perusal of the FIR dated 08.02.2015 prima facie reveals that the first informant had received information that the body of his father Ashok Jadhav was lying in the paddy field of one Rajendra Dagdoba Jadhav. The son of the deceased, therefore, lodged FIR against an unknown persons for committing murder of his father. The record reveals that the body of the deceased Ashok Jadhav was sent for post mortem. The post mortem report indicates that there were multiple occipital & temporary skull bone fractures as well as other injuries and that he had expired due to grievous head injury. The record prima facie indicates that the death of Ashok Jadhav was homicidal. The statement of eye witness Suresh Jagtap prima facie indicates that on 07.02.2015 at about 9.20 p.m., he had seen the co-accused Dhananjay Nana Khomane, Bhanudas Nana Khomane,

Atul Maruti Saste, Kondiba Jagannath Chavan & Sultan Yasin Sayyed near the house of Rajendra Jadhav. He had further stated that the co-accused Dhananjay had stopped the deceased who had come on a motor cycle and thereafter, all the other accused lifted Ashok Jadhav, took him to the paddy field, assaulted him and inflicted injuries on his head. The statement of the eye witness does not prima facie indicate that the Applicant herein was present at the place of the incident and that he had inflicted injuries on the deceased Ashok Jadhav.

7. The material on record prima facie indicates that the Applicant was a Sarpanch and that there was previous enmity between the Applicant and the deceased. The witness namely Haribhau Baban Gaikwad had also stated that the Applicant herein had threatened to cause death of said Ashok Jadhav. The witnesses have stated that the deceased always feared for his life at the hands of the Applicant herein. It is, however, to be noted that the deceased had not filed any police complaint against the Applicant. Even otherwise the previous rivalry or the threats issued due to previous rivalry at the most only raise a suspicion about the involvement of the Applicant in

the said crime. In the absence of any other material, the motive per say is not prima facie sufficient to link the Applicant with the crime.

8. The confessional statement of the co-accused cannot prima facie be considered as an incriminating circumstance as the co-accused had retracted from the said statement. The said statement was recorded by the Magistrate without giving any time for reflection and further the accused was remanded to the police custody after recording of the confessional statement.

9. Under these 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.50,000/- (Rupees Fifty Thousand Only) with one or two sureties in the like amount to the satisfaction of the learned Additional Sessions Judge, Pune.

(ii) The Applicant shall stay away from the village – Sakurde, Taluka – Indapur, District – Pune till the evidence of the material witnesses is recorded.

(iii) The Applicant shall not interfere with the complainant and the witnesses and shall not tamper with the evidence in any manner.

10. In view of disposal of the Bail Application, the Intervention Application does not survive and the same stands disposed of accordingly.

(ANUJA PRABHUDESAI, J.)