

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

CRIMINAL BAIL APPLICATION NO.2319 OF 2015

Yogesh Amarsingh Thakur & Anr. ..Applicants
V/s.
The State of Maharashtra .. Respondent

Mr.Ashwin Thool i/by Mr. D.M.Patil for the Applicant.
Smt.M.H. Mhatre, APP for the Respondent-State.

CORAM : A. S. GADKARI, J.
DATE : 04th FEBRUARY 2016.

P.C.

1. This is an application for bail in CR No.126 of 2015 registered with Bhandup Police Station, Mumbai dated 28-02-2015 under sections 143, 144, 146, 147, 148, 149, 307, 302, 324 read with section 34 of the Indian Penal Code.

2. The first information report is lodged by Smt.Kamal Sorte for an incident which occurred on 27th February 2015. The name of the deceased is Sachin Sorte. It is a case of the prosecution that the accused no. 1 Naresh Shetty was chitchatting with his girl-friend just opposite the house of Sachin Sorte. That was objected by Sachin, due to which there was altercation and scuffle with the accused no.1 Naresh.

Followed by the said quarrel, accused no.1 Naresh Sorte along with his three associates came at the house of the deceased Sachin and started assaulting him with bamboo stick, fist & kick blows. At that time the neighbours namely Santosh Mane, Dhanraj Khade and Manoj Kamble tried to rescue Sachin from the said assault. However the accused no.1 Naresh Shetty and his associates continued their assault. Because of the said commotion the neighbors from the adjacent houses gathered and therefore the accused persons ran away. Sachin was admitted to hospital on 22-02-2015 late in the night. He succumb to the injury on 01-03-2015 and therefore section 302 of Indian Penal Code is added to the said crime. The cause of death as opined by the Medical Officer is "Hemorrhage and shock due to blunt trauma abdomen" (unnatural). After completion of investigation the chargesheet has been filed.

3. The learned counsel for the applicant at the outset on instructions sought leave to withdraw the present application qua the applicant no. 1 who is also involved in CR No.406 of 2012 registered with Bhandup Police Station, Mumbai under sections 326 of Indian Penal Code and other

allied sections. Leave granted. Present application is dismissed as withdrawn as against the applicant no.1.

4. As far as the applicant no.2 is concerned, though it is stated by the complainant and other witnesses that the accused no.1 Naresh Shetty along with three other associates assaulted Sachin Sorte on 27-02-2015 at about 10.35 p.m., nobody has identified him either during the said assault or during the course of the Test Identification Parade. The applicant no.2 is arrested on 23rd April 2015 and Test Identification Parade is conducted on 20-08-2015. As stated earlier no witness has identified the applicant no.2 as the person in the said unlawful assembly or a person who assaulted the deceased with fist blows. The weapon used in the present crime i.e. the Bamboo Stick is recovered at the instance of accused no.1 Naresh Shetty.

5. In view of the same the applicant no.2 Jayesh Yadav has made out the case for his release on bail. Hence, the following order.

ORDER

(i) The application as against applicant no.1 Yogesh

Thakur is dismissed as withdrawn.

(ii) The applicant no.2 Jayesh Yadav be released on bail in CR No.126 of 2015 registered with Bhandup Police Station, Mumbai on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

(iii) After his release from jail applicant no.2 Jayesh Yadav shall report to the Bhandup Police Station on 1st and 3rd Monday of every month between 11.00 am to 1.00 pm.

(iv) The applicant no.2 shall also attend all the court dates.

(v) The applicant no.2 shall not tamper with the evidence and/or influence the prosecution witnesses.

(vi) The application is partly allowed in the aforesaid terms.

(A.S. GADKARI, J.)