

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

CRIMINAL BAIL APPLICATION NO. 2340 OF 2015

Mayur Ganpat Yadav &
Yogesh S. Kolte

..Applicants

v/s.

The State of Maharashtra.

..Respondents

Mr. Harshavardhan Akolkar for the Applicant
Mr. D.P.Adsule, APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : FEBRUARY 08, 2016.**

P.C.

1. This is an application of bail filed by the aforesaid applicants who are facing trial in Sessions Case No.448 of 2015 arising from Crime No.46 of 2015 registered with Jejuri Police Station for offences punishable under Section 143, 147, 148, 323, 302, 504, 506 r/w. 149 of the Indian Penal Code.

2. The case of the prosecution in brief is that on 29.3.2015 at about 8.30 p.m. the applicants and others inflicted injuries on one

Rajendra Popat Khengre and others. It is stated that the said Rajendra expired due to the injuries inflicted by Kolte and others. Hence on the complaint lodged by one Navnath Sureseh Yadav, the aforesaid crime was registered against the applicants and the other co-accused. The applicants were arrested on 30.3.2015. The crime was investigated and upon completion of investigation, chargesheet was filed, and the case being Sessions triable, the same has been committed to the Sessions Court, Pune. The applicants had filed application before the Sessions Court, Pune which has been dismissed by the Addl. Sessions Judge, Pune by order dated 20.11.015.

3. Mr. Akolkar, the learned counsel for the applicants submits that the records do not prima facie show the involvement of the applicants in committing murder of Rajendra Khengre. He has further submitted that the FIR prima facie reveals that the complainant and others had gone to the village Pisarve, armed with weapons in order to assault the applicant Yogesh Kolate and his parents and on seeing the said incident, the villagers had intervened and had prevented the applicants and others from inflicting injuries

on said Yogesh. He has further submitted that the post mortem report does not indicate that the said Rajendra had expired due to the injuries inflicted by the applicants or the other co-accused. He has submitted that the applicants are in custody since March 2015 and that the allegations levelled against the applicants do not justify further detention. The learned counsel for the applicants has also submitted that the co-accused have already been released on bail and that the applicants are also entitled for bail on the ground of parity.

4. The learned APP submitted that the offence is of a serious nature and that the gravity of the offence does not justify grant of bail.

5. I have perused the record and considered the submissions advanced by the learned counsel for the applicants and the learned APP for the State. The FIR prima facie indicates that on 28.3.2015 there was a quarrel between Sagar, the brother of the complainant and the applicant Yogesh Kolte. The records further reveals that in view of said quarrel, the complainant, his brother Sagar and about 22

others had gone to the house of the applicant Yogesh, armed with iron bars, sticks, rods etc and that they had assaulted the applicant Yogesh and his family members by sticks, rods, leather belts etc. The FIR further reveals that when the mother of said Yogesh had intervened, they had pushed her and that she had shouted and called the villagers for help, at which time the present applicants and others had come to the place of the incident and they had retaliated by assaulting the complainant and other persons by means of kicks and fist blows.

6. The FIR indicates that Rajendra Khengre was assaulted by kicks and blows and that he was taken to the hospital and subsequently he had succumbed to the injuries.

7. The FIR prima facie indicates that the complainant as well as others who had accompanied him had gone to the place of the incident armed with weapons with an intention of assaulting Yogesh and his family members and that the applicants and others had arrived at the spot of the incident only when the mother of Yogesh

had called them for help.

8. The post-mortem report prima facie indicates that said Rajendra had sustained abrasion over first and second toe of right leg. The post mortem report does not indicate that he had suffered any external or internal injury. The post-mortem report does not prima facie indicate that the deceased had expired as a result of the injuries inflicted by the applicant or the other co-accused. Till date the prosecution has not placed on record the copy of the final opinion. Consequently, at this stage there is no prima facie material to indicate that the death of Rajendra was homicidal.

9. The applicants are in custody since March 2015. Chargesheet is already filed. Considering all the above facts and circumstances and particularly the nature of the allegations leveled against the applicants, in my considered view the applicants are entitled for bail. Hence the application is allowed on the following terms and conditions.

i) The aforesaid applicants, arrested in Crime No.46 of 2015

registered with Jejuri Police Station, the applicants be released on bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand Only) with one solvent surety in the like amount.

- ii) The applicants shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- iii) The applicants to co-operate with the conduct of the trial.

(ANUJA PRABHUDESSAI, J.)