

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2368 OF 2015

Jitendra Ramesh Taware @ Bunty. ..Applicant.
Vs.
The State of Maharashtra. ..Respondent.

Mr. Vinay Bhanushali for the Applicant.
Ms.S.S.Kaushik, APP. for the State.
Mr. Vinod Vithal Arolkar, API. Meghwadi Police Station present.

CORAM : A.S.GADKARI, J.
DATE : 26th February, 2016

P.C.

The applicant is seeking bail in CR No.42/2014 dated 6.2.2014 registered with Meghwadi Police Station, Jogeshwari, Mumbai and culminated in Sessions Case No.368/2014 under Sections-307, 452, 323 read with 34 of the Indian Penal Code.

2) The first information report is lodged by Shri. Chetan Sapte on 6.2.2014. In the said report, it is stated that the complainant was working with Raju Frame Maker owned by Rajesh @ Raju Seth. He has stated that on 6.2.2014 when he and his owner were sitting in the shop, four unknown persons entered into the shop. They called his owner outside the shop. His owner namely Rajesh Seth refused the said request. Therefore, assailants dragged him out of the shop and one of the person inflicted blow with a chopper on the head of the said Rajesh Seth. The said Rajesh Seth succumbed to the injuries while taking treatment in the hospital. After completion of investigation, charge sheet has been filed.

3) This Court by an order dated 12.1.2015 and 9.6.2015

has released the co accused Laxaman Raju Sannaki @ Bappa Sannaki and Vaibhav Dada Sapte on certain conditions. The said two accused persons have not been identified by any of the witnesses in the test identification parade. As far as present applicant is concerned, it is the prosecution case that the complainant Chetan Sapte has identified the present applicant in the test identification parade. I have perused the papers of the test identification parade conducted by the Executive Magistrate. While recording the test identification parade the concerned authority has simply stated that the witnesses namely Chetan Sapte has identified the present applicant as "real accused". Apart from the said fact nothing has been mentioned during the test identification parade. It is a matter of record that the accused No.5 namely Santaji Gaikwad assaulted the deceased Rajesh Shet with chopper on his head. That, the said chopper has been recovered at the instance of accused No.5 Santaji Gaikwad. It appears from the statements recorded by the police and which are annexed to the charge sheet that the applicant was only present at the scene of offence however, the witnesses namely Siddesh Shetye and Jitendra Shankulkar have failed to identify the present applicant during the test identification parade.

4) After taking into consideration the evidence available on record, I am of the opinion that the applicant has made out a case for his release on bail.

Hence, the following order.

ORDER

a) The applicant shall be released on bail in CR No. 42/2014 registered with Meghwadi Police Station, Jogeshwari,

Mumbai on his furnishing PR bond of Rs.25,000/- with one or two solvent sureties in the like amount.

b) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Meghwadi Police Station, Jogeshwari, Mumbai.

c) The applicant shall not leave Mumbai and Thane District without the prior permission of the Trial Court, till the conclusion of the trial.

d) The applicant shall attend the concerned Police Station in once a fortnight i.e. on 1st and 3rd Sunday of every month between 10.00 a.m. to 12.00 noon, till the conclusion of the trial.

e) The applicant shall not tamper or attempt to threaten/influence the complainant or any persons concerned with the case.

f) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)