

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.326 OF 2016

Maruti @ Sandeep Vitthal Chauhan @ Anr. ...	Applicants
Vs.	
The State of Maharashtra ...	Respondent

ALONGWITH
BAIL APPLICATION NO.2395 OF 2015

Dnyaneshwar S/o. Jagannath Bankar ...	Applicant
Vs.	
The State of Maharashtra ...	Respondent

Mr. Rameshwar Totala, Adv. i/b. Prashant Phophale, Adv. for the applicant in BA No.326 of 16.

Mr. Vijay Hiremath, Adv. i/b. Mr. Swaraj S. Jadhav, Adv. for the applicant in BA No.2395 of 2015.

Mrs. G.P. Mulekar, APP for the State.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 23rd February, 2016.

P.C. :

1. These are applications filed under Section 439 of the Cr.P.C. by the aforesaid applicants who are facing trial in Sessions Case No.57 of 2014 under Sections 143, 147, 148, 149, 302, 427 & 452 of the IPC registered with City Police Station, Yeola, Niphad.

2. The case of the prosecution in brief is that on 24th February, 2014 the applicant along with other formed an unlawful

assembly armed with deadly weapon and committed murder of one Saddam Karim Pathan.

3. The previous bail application being No.1436 of 2014 was allowed to be withdrawn with liberty to file fresh bail application in the event trial did not conclude within one year from the date of the order i.e. 25th July, 2014. Since the trial has not commenced, the applicant has filed the present bail application.

4. Mr. Totala and Mr. Hiremath, the learned counsels for the applicant in both the bail applications have submitted that there is no prima facie material to show that the applicants herein were involved in commission of offence. No specific role has been attributed to the applicants. They have further stated that one of the applicants Vitthal had lodged a FIR against the deceased for stealing his cows. They claim that the applicants have been falsely implicated in view of the previous enmity. They have further stated that the applicants have no criminal antecedents and that they are in custody since last two years. They further stated that the applicants are ready to abide by the conditions imposed upon them. Therefore, they submitted that the applicants be released on bail.

5. Mrs. Mulekar, the learned APP for the State has submitted that the statements of the witness prima facie reveal that the applicants were involved in committing offence. She has further submitted that the weapons of assault have been recovered pursuant to the disclosure statements made by the applicants. She has further submitted that the offences are of serious nature and that if the applicants are released on bail there is possibility of hampering the trial.

6. I have perused the records and considered the submissions advanced by the counsels of the respective parties. The records prima facie reveal that on 24th February, 2014 one of the applicants herein Vitthal had lodged a FIR against the deceased and his brother Salim alleging that they had committed theft of his cows. Pursuant to the said FIR Crime No.32 of 2014 was registered against said Saddam and his brother Salim for the offence punishable under Section 379 r/w.34 of the IPC.

7. The statement of Salim Karim Pathan, the brother of the deceased prima facie reveals that on the same date at about 5.30 to 6 pm the applicants along with other 10 to 15 persons came near

their house and pelted stones on the door of the house. They broke open the door and criminally trespassed into their house. He stated that when they tried to escape, they caught hold his brother Saddam and assaulted him with sticks, iron pipe and chain. As a result Saddam sustained serious injuries and he was admitted in Civil Hospital, Nashik.

8. The statement of Salim further reveals that said Saddam expired as a result of injuries inflicted by the applicants. The post mortem report prima facie indicates that the deceased had sustained multiple injuries all over his body. The doctor has opined that the death of Saddam was due to Hemorrhagic shock due to multiple injuries sustained consequent upon blunt trauma.

9. The statement of the eye witness therefore clearly indicates that the present applicants had gone to the house of the deceased armed with weapons and had assaulted him. The material on record also indicates that pursuant to the disclosure statements made by the applicants while they were in custody, blood stained clothes were recovered at their instance. Furthermore iron pipe was recovered at the instance of the applicant Dnyaneshwar. Whereas chain and

wooden stick were also recovered at the instance of applicant Vitthal. The material on record therefore prima facie shows involvement of the applicants in committing a crime which is of serious nature. The trial of the case has not yet commenced. The material witnesses including the eye witnesses are yet to be examined. Releasing the applicants at this stage therefore can thwart the course of justice. Considering the above facts and circumstances, in my considered view, the applicants are not entitled for bail.

10. Hence the applications are dismissed.

(ANUJA PRABHUDESSAI, J.)