

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2415 OF 2015**

Amjad Mohiddin Khan	...Applicant
Versus	
State of Maharashtra & Anr.	...Respondents

Ms. Nagma Tondon for the Applicant

Mr. Arfan Sait, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
MONDAY, 4th APRIL, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 118 of 2014 registered with the Kondwa Police Station, for the alleged offences punishable under Sections 302, 143, 144, 147, 148, 149, 323, 324, 504, 506(1) of the Indian Penal Code; under Section 4(25) of the Arms Act and under Section 37(1) of the Bombay Police Act.

3. The complainant is one Vishwajit Gaikwad. It is alleged by the complainant that on 17th March, 2014 at about 5:00 p.m, the present applicant along with his brother Imran Khan and others came to the spot where the complainant and others were standing. It is alleged that the present applicant assaulted Sujeet Gaikwad with a sattur on his head and stated that he is going to finish him. Thereafter, Amjad is also stated to have assaulted Sujeet with a sattur on his head. As a result of the assault, Sujeet fell down and the other two persons i.e. Shabaz, Imran and their associates assaulted the deceased with a wooden stick.

4. Learned Counsel for the applicant submitted that a perusal of the injury certificate of Sujeet shows that he was first taken to Satyanand Hospital and thereafter, he was shifted to Inamdar Hospital for further treatment. She submitted that the certificate issued by Inamdar Hospital which is on page 67 of the application shows, that the history given by the relatives was that Sujeet was assaulted by stones and wooden sticks and not by sattur. She submitted that there is nothing to show that the applicant had assaulted the deceased with sattur. According to her, the certificate issued by Satyanand Hospital also shows that it was the injury caused by a hard

and blunt object and as such, the same cannot be said to have been caused by sattur. She submitted that the applicant has been languishing in jail for the last two years. Learned Counsel also submitted that with respect to the same incident, there is a cross case which is registered at the instance of the present applicant with the same Police Station alleging offences punishable under Sections 326, 452, 323, 504 r/w 34. She submitted that even the applicant had sustained an injury and relied on the injury certificate of the applicant which is on page 157 of the application.

5. Learned A.P.P submitted that apart from the statements of the eye-witnesses, there are statements of independent eye-witnesses who have specifically disclosed that it was the present applicant who assaulted Sujeet Gaikwad with sattur on his head, as a result of which, he fell down. He submitted that the post-mortem report shows the nature of injuries sustained by the deceased.

6. Perused the charge-sheet. Although there is a cross case with respect to the same incident, wherein, the present applicant is the complainant, it appears that the applicant has received a simple injury on

his chin and on the left eyebrow. The injury certificate issued by Inamdar Hospital although shows that the injury was caused by a hard and blunt object, it is pertinent to note, that the said injury certificate does not give the details of the injuries sustained by the deceased. It appears that the deceased was shifted immediately from Satyanand Hospital to Inamdar Hospital for treatment. The post-mortem report shows the number of injuries sustained by the deceased. There is one statement of Janjira Sadiq Khan, who is an independent witness and who has categorically named the applicant as having assaulted the deceased with a sattur on his head. The said statement is consistent with the statement of the complainant and other eye-witnesses as well as the injuries sustained by the deceased. It also appears that the bail application of co-accused Imran Mohiddin Khan, the brother of the applicant was rejected by this Court vide order dated 17th March, 2016.

7. Considering the role of the present applicant in the assault and the murder of the deceased, this is not a fit case to enlarge the applicant on bail. Accordingly, the application is rejected.

8. Learned A.P.P states that charge has been framed on 9th March, 2016. Since charge is framed, learned Judge is requested to make an endeavour to dispose of the case as expeditiously as possible.

REVATI MOHITE DERE, J.