

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 30 OF 2017

Nandu Govind Khile,
Age 38 years, Occu.Aгри.,
R/o Anakwadi, Taluka and
District Dhule

.. Applicant

Versus

The State of Maharashtra,
through Dhule Taluka Police
Station, Taluka and Dist.Dhule

.. Respondent

Mrs R.S. Kulkarni, Advocate for applicant
Mr A.B. Girase, Public Prosecutor for respondent
Mr M.S. Kulkarni, Advocate for complainant, assisting the P.P.

CORAM : N.W. SAMBRE, J.

DATE : 20th February 2017

PER COURT

Heard.

2. The applicant is seeking regular bail in C.R. No.145/2016, registered at Dhule Taluka Police Station, District Dhule, for the offences punishable under Sections 302, 307, 341, 143, 147, 148, 149 of the Indian Penal Code.

3. The role attributed to the present applicant, as could be noticed from the first information report is, the applicant along with other twelve co-accused assaulted Pitambar, complainant with sickle, axe, stick etc.

4. The applicant has specifically come out with a case that the applicant was not present at the place of incident, as at the relevant

time, he was at hotel Gitesh consuming liquor, which could be confirmed from the CCTV footage.

5. Along with charge-sheet, the prosecution has placed on record the recovery of CCTV footage and its transcript. Perusal of the recovered CCTV footage that up to 21.40 hours, the applicant was Hotel Gitesh and from there, he traveled to the place of incident i.e. Anakwadi, which distance is about 7 to 10 kms.

6. Apart from above, it is claimed that the applicant has participated in the crime in question, as he assaulted Pitambar with an axe.

7. The axe and other weapons are recovered from the other co-accused, whereas the present applicant who surrendered immediately i.e. on next day of incident, nothing is recovered.

8. Apart from above, the CCTV footage depicts that till 21.40 hours the applicant was at Hotel Gitesh and even if presumed that he has traveled to village Anakwadi, which is at a distance of about 7 to 10 kms. from the Hotel Gitesh, it is difficult to infer that he was present on the spot of incident at 21.30 hours. Though an issue of alibi is required to be appreciated, the prosecution has produced the CCTV footage along with charge-sheet and as such, same is considered for the purpose of dealing with the bail application.

9. In view of the aforesaid observations, i.e. (a) the serious doubt as regards the physical presence of the applicant at the spot of incident and (b) nothing is recovered from the applicant including the

weapon, which is claimed to have been used in commission of crime in question, in my opinion, the applicant deserves to be released on bail.

10. The applicant be released on bail in C.R. No.145/2016, registered at Dhule Taluka Police Station, District Dhule, for the offences punishable under Sections 302, 307, 341, 143, 147, 148, 149 of the Indian Penal Code, upon furnishing P.R. bond of Rs.25,000/- with one or two sureties in the like amount.

11. The applicant shall not enter the jurisdiction of Taluka Police Station, Dhule for a period of six months from today.

12. The applicant shall not influence the prosecution witnesses and shall not tamper with the prosecution evidence.

13. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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