

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

35 CRIMINAL APPLICATION NO. 1626 OF 2017

SANTOSH POPAT JADHAV
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. N.L. Choudhari
APP for Respondent/State : Mr. S.D. Ghayal
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CORAM : T.V. NALAWADE, J.
DATED : April 10, 2017.

ORDER :

1. The application is filed for bail. Both the sides are heard. A statement was made by the learned counsel for the applicant that this is the first application filed for bail by the applicant in this Court.

2. The papers of investigation were made available to this Court for perusal and this Court has perused the same. The report is given by one Smt. Sunita Dulgaj. Two daughters of Smt. Sunita are given in marriage to two sons of Jogiram Chandaliya. Allegations are made that there was harassment to both the daughters and one after the other, both the daughters were driven out of the matrimonial house by Jogiram and his sons. Since then, there was dispute between the family of the complainant and family of Jogiram Chandaliya.

3. There were many incidents between the families. But, the main incidents took place on 2.5.2015 and 3.5.2015. It appears that on 2.5.2016, when Atish son of the complainant intercepted Naresh Chandaliya and asked him as to why he was harassing his sisters, quarrel took place. During that quarrel also, Atish was assaulted by Naresh Chandaliya and his associates including the present applicant. He was required to be admitted in Ghati Hospital for giving treatment.

4. Second, main incident took place on 3.5.2016 at about 1.30 p.m. in the house of complainant. At that time, Ganesh and Atish, sons of complainant, two daughters of complainant and complainant were present in the house and at that time members of the family of Jogiram, who include Naresh Chandaliya, Sunil Chandaliya, Mukesh Chandaliya and other persons, came there with the main accused including the present applicant, and they were armed with weapons like iron rod, wooden log etc. Initially they pelted stones and bricks at the house of the complainant and for resistance, the persons from the family of complainant threw breaks, stones. Then by using force, these persons entered the house of complainant and they assaulted Ganesh, one Sumit, who was present there by chance

and Sunita. In F.I.R. specific allegation is made against the present applicant Santosh Jadhav, who is employee of main accused that he had entered the building and by using iron rod, he had assaulted Ganesh. The P.M. report shows that as many as 31 injuries, surface wounds were caused to Ganesh, and they were all over his body and due to these injuries, there was under scalp contusion at right frontal region and high parietal region. The internal injuries were caused by surface wound described in column No. 17 and 21 and cause of death is described as head injury with multiple contusions. Sunita, eye witness also sustained injury and M.L.C. is there on the record. Thus, in the F.I.R., the name of the present applicant was mentioned as one of the assailant, who assaulted Ganesh. Ganesh died due to aforesaid injuries and attempt on the life of his brother Atish was also made.

5. The learned counsel for applicant submitted that there are some statements of witnesses showing that the present applicant had not entered the building, but he was standing outside the building, though with arms. There are such statements, which include supplementary statement of the complainant. Though there is such circumstance, this circumstance cannot be considered at this stage. The learned

APP drew the attention of this Court to the statements of some persons from the place of residence of applicant showing that the present applicant and the main accused had left the place after having talk for the house of complainant. Thus, the present applicant and the main accused had gone together from their place to the place of the deceased, they were armed with sticks, iron rod and by pelting stones and bricks, they had created terror in the region. The material shows that some accused persons were standing at the courtyard and corridor and they were preventing the others to enter in the building. Due to these circumstances, the learned APP submitted that the provision of section 120-B of I.P.C. is also used against the applicant.

6. The learned counsel for applicant submitted that vital blow was given by Mukesh, so the bail can be granted to the present applicant. This submission is not at all accepted. They had come there prepared and the material collected is sufficient to prima facie hold that their intention was to finish Ganesh and also Atish. In view of these circumstances and the material showing that only after they became sure that both Ganesh and Atish were finished, they had left the place, this Court holds that bail cannot be granted to the present applicant. There will be danger to the life of Atish and other witnesses and

there is possibility of tampering with the prosecution evidence. So many persons were brought by the main accused to the house of deceased and they all had participated in the incident. Due to this circumstance this Court holds that it is not a fit case to use the discretionary power. The application stands rejected.

[T.V. NALAWADE, J.]

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