

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 28 OF 2017

1. Ramesh Iranna Bali
2. Mahesh @ Mallesh Ovankappa Bagade ... Applicants
Vs.
The State of Maharashtra ... Respondent

Mr. Ravi G. Shinde a/w. Mr. Sujay H. Gangal and Mr. M. Singh Chhabra,
Advocate for the applicants.

Mr. Prashant Jadhav, APP for the State.

Mr. Vijay Datta Talekar, Police Constable, Bhosari Police Station, Pune
present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **9th January, 2017.**

P.C.:

This Application for bail is moved by the applicants/accused, as they are facing charges under sections 307 r/w. 34 of Indian Penal Code, under section 37(1), 135 of Bombay Police Act and section 4(25) of Arms Act in C.R. No. 156 of 2016 registered with Bhosari Police Station, Pune. One Nihal @ Sonya Sanjay Pawar gave information to the police on 19th May, 2016 that on midnight of 18th May, 2016 the applicants/accused contacted him and applicant no. 1 told him that they are going to commit his murder and was talking loudly by saying "Inform Saheb that he has taken revenge". Applicant no. 1 Ramesh Bali threw chilly powder on the face of the complainant and assaulted him by sickle on his head and on his body. The complainant tried to ward off the blows on his left and right hand and therefore, there were injuries on his left and right hand. Applicant no. 2 Mahesh @ Mallesh Bagade picked up the stone and threw it on the chest

of the complainant. The complainant got injured and thereafter the applicants ran away. Applicant no. 1 was arrested on 19th May, 2016 and applicant no. 2 was arrested on 4th June, 2016. Hence, this Bail Application.

2. The learned counsel for the applicants/accused has submitted that the applicants/accused have no criminal record. They have not committed offence much less the offence under section 307 of the Indian Penal Code. The learned counsel relied on the injury certificate issued by Sasoon General Hospital in respect of the injuries of the complainant. He submitted that out of five injuries, four injuries are simple and only one injury is grievous in nature. It is not an offence under section 307 of Indian Penal Code.

3. Learned APP opposed the Bail Application. He submitted that charge sheet is filed. He relied on the statement of the witnesses including the statement of one Surdas Tukaram Gaikwad, who was reportedly known as "Saheb".

4. Perused the FIR, statements of the witness and the injury certificate. These documents disclose that both the applicants/accused had assaulted the complainant on the night of 18th May, 2016. Applicant no. 1 assaulted the complainant with sickle, however, applicant no. 2 threw stone on the

chest of the complainant. The role attributed to both the applicants/accused are different. The act committed by applicant no. 2 is of lesser gravity than the act attributed to applicant no. 1. It is also informed that the applicants-accused do not have any criminal antecedents. Hence, I refuse to grant bail to applicant no. 1-Ramesh Iranna Bali. However, I am inclined to grant bail to applicant no. 2-Mahesh @ Mallesh Ovankappa Bagade on the following terms and conditions:

ORDER

- (i) Applicant no. 2 Mahesh @ Mallesh Ovankappa Bagade be enlarged on bail on furnishing P.R. Bond in a sum of Rs.30,000/- with one or two sureties in the like amount;
- (ii) Applicant no. 2 shall not threaten or harass the complainant or the witnesses;
- (iii) Applicant no. 2 shall not commit any offence against human body.
- (iv) Applicant no. 2 shall attend all the Court dates.
- (v) Applicant no. 2 shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address;
- (vi) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

6. The Application for bail stands disposed of on above terms.
7. Parties to act upon the authenticated copy of this order.

(MRIDULA BHATKAR, J.)