

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION No.126 OF 2017

Saajansingh Satnamsingh

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr.D.P.Adsule, Advocate, for the Applicant

Mr.Deepak Thakare, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 31.03.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.108 of 2016 registered with the Kamshet Police Station, Pune, for the alleged offences punishable under Sections 302, 143, 147, 149, 342, 504 & 506 of the Indian Penal Code.

3. Learned counsel for the Applicant states that the allegation as against the Applicant is that he assaulted deceased Sangram Hitape with fist and kick blows. He submitted that the injury on the head is alleged to have been caused by

Chandrashekhar Gautam Sahi with an iron rod and it is this injury which is a fatal injury.

4. Learned APP opposed the Application. He submitted that all the accused including the Applicant assaulted the deceased Hitape and that Section 149 of the Indian Penal Code will apply.

5. Perused the papers.

6. The complaint is lodged by one Prashant Sashte on 09.10.2016 alleging that on 08.10.2016 at about 9.30 p.m., when he was on his way home, he received a call from his friend Sangram Hitape (deceased), asking him to join them for beer and dinner at Babbi Punjabi Dhaba. Pursuant thereto, the complainant, Sangram (deceased) and Nikhil Gaikwad went to the Dhaba, situated on the old Mumbai-Pune road. After drinks and dinner, Sangram (deceased), the complainant and Nikhil were unable to pay the entire bill and informed that they would pay the bill later. Pursuant thereto, there was an altercation between the waiter, complainant and his friends. According to the complainant, they were assaulted and were asked to sit in

one room till the bill was paid.

7. On 09.10.2016 at about 4.30 a.m., the complainant and his friends tried to escape from the spot. However, one person told them that he would not allow them to leave unless the bill was paid and started abusing and giving fist blows. According to the complainant, at that time, 8 to 10 persons came there and started assaulting the complainant and his two friends i. e. Sangram and Nikhil with wooden logs, iron rods and fist and kick blows. He has stated that somebody called the police, pursuant to which police came and they were taken to the hospital for treatment. The complainant has given detailed description of the assailants.

8. According to Madan Thakur, an eye witness, on 09.10.2016 at about 4.30 a.m. when he was asleep, he heard somebody fighting and shouting and hence, he stepped out. He has stated that when he stepped out, he saw that opposite the dhaba, there was a quarrel between the watchman, waiter and three persons. He has further stated that the watchman- Chandrashekhar Sahi assaulted one person with an iron rod on his head, pursuant to which the said person fell down. He has

further stated that thereafter, Jaynarayan Sah and Ranjeetsingh Bhatti assaulted the said person with bamboo sticks and thereafter, the present Applicant along with other accused gave fist and kick blows. The said statement of Madan Thakur is consistent with the statements of other eye witnesses. Admittedly, it appears that the parties were not known to each other. The role alleged to have been played by the Applicant is that of assaulting Sangram (deceased) with fist and kick blows. Whether or not Section 149 of the Indian Penal Code will apply or not, is a matter which will be decided by the trial Court. The Applicant has no antecedents.

9. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions:-

O R D E R

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.25,000/- with one or two local sureties in the like amount;

(ii) The applicant shall attend the concerned Police Station on the **first Monday of every month** between **10:00 a.m. to 11:00 a.m.** till the conclusion of the trial;

(iii) The Applicant shall not leave the jurisdiction of Pune without permission of the trial Court;

(iv) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vi) The applicant to cooperate with the conduct of the trial;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

10. The Application is allowed in the aforesaid terms and is accordingly disposed of.

11. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)