

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION No. 303 OF 2017

Mahesh Malkappa Pujari	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Aniket Nikam i/b. Mr. Chetan S. Damre, Advocate for the Applicant.
Mr. Y.M. Nakhwa, APP for Respondent – State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **6th February, 2017.**

P.C.:

This Application is moved for bail under section 439 of Cr. P.C. The applicant/accused is facing charges under sections 143, 147, 149, 302, 341 of Indian Penal Code and under sections 3 and 7 of Criminal Law Amendment Act in C.R. No. 371 of 2016 registered with Pimpri Police Station, District Pune.

2. It is the case of the prosecution that one Vinayak Kailas Patole and applicant/accused & co-accused were hostile on account of some previous quarrel. On 19th June, 2016 when Vinayak Patole along with eye witness Laxmikant Naik and one Atul Gore were near the petrol pump to bring diesel to fill up in tempo, at that time, the applicant/accused along with co-accused Shubham Salunkhe arrived with two wheeler and Shubham asked eye-witness Laxmikant Naik to go away along with Atul otherwise

he would assault him also. Then he caught Vinayak Patole. Applicant/accused Mahesh Pujari and co-accused Rajesh Pawar were also present. They all started beating Vinayak. Other three persons again arrived on one motorcycle and started beating Vinayak with fist blows and kicks. He fell down but they continued to beat him. One Kiran picked up two cement blocks and assaulted on the head of Vinayak. Other accused Akash Chavan also hit with cement blocks 6 to 7 times on the head of Vinayak and Vinayak succumbed to head injuries. Thereafter, the incident of assault was communicated to Kailash Shivaji Patole, father of deceased, who gave information to the police on 20th June, 2016 and pursuant to which, the offence was registered against the applicant/accused and co-accused.. The applicant/accused was arrested on 20th June, 2016. Hence, this Bail Application.

3. The learned counsel for the applicant/accused has submitted that the applicant/accused was not present at the time of incident. 2 to 3 eye witnesses have not taken his name. The applicant/accused is innocent and he has not committed any offence. There are no criminal antecedents to the record of the applicant/accused. He further submitted that a specific role of hitting cement block on the head of deceased is attributed to co-accused Kiran and Akash and not to applicant/accused. The learned counsel prays that applicant be released on bail.

4. Learned APP opposed the Bail Application and relied on the statements of the eye-witnesses wherein they stated that applicant/accused was present at the spot. He further relied on postmortem notes. Learned APP submitted that police have collected CCTV footage and in the CCTV footage the applicant was seen at the spot.

5. Read the FIR and the statements of the eye witnesses. Perused postmortem notes. Postmortem notes disclose that deceased died due to head injury. After going through the statements of eye-witnesses and if the incident of assault is construed and after considering the case of prosecution as it is, it appears that the applicant/accused was present at the time of incident. The case of the prosecution is to be accepted that the applicant/accused also participated in assaulting the deceased, however it was assault by fist blows and kicks. There is nothing on record to show that applicant/accused was holding any weapon either and deceased died due to head injury which had caused by hitting cement blocks by other two co-accused. On query it is confirmed that the applicant/accused does not have criminal antecedents. Hence, bail is granted to the applicant/accused on the following terms and conditions:

ORDER

- i) Application is allowed.

- ii) The applicant/accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.50,000/- with one or two sureties in the like amount;
- iii) The applicant shall not commit any criminal activity while on bail;
- iv) The applicant shall not jump the bail;
- v) The applicant shall attend all Court dates.
- vi) The applicant 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;
- vii) 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.

(MRIDULA BHATKAR, J.)