

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.306 OF 2017

Annasaheb Barikrao Gholave @ Balu

Applicant

versus

The State of Maharashtra

Respondent

Mr.PG.Sarda for Applicant.

Smt.J.S.Lohokare, APP, for State.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 10th July 2017

PC :

1. This is an application for bail in connection with CR No.45 of 2016 registered with Dindoshi Police Station, Mumbai for offences punishable under Sections 302, 397 read with Section 34 of Indian Penal Code. The offences were also registered under Section 4(25) of Arms Act and under Section 37(1) and 135 of Maharashtra Police Act.

2. The prosecution case is that on 19th January 2016, at about 9.00 a.m; one of the accused threw chili powder into the eyes of the deceased Philip Nadar and the other co-accused assaulted him by sword and stick. It is also the prosecution case that the third accused assaulted him by kicks.

3. Statement of Durairaj Nadar was recorded on 22nd January 2016. In the said statement it is stated that there were about four persons involved in the assault on the deceased. It is stated that the

third person was assaulting the deceased by giving kick blows. The others were named and they were attributed the overt act of assault by weapons. The identification parade was conducted on 18th April 2007.

4. Learned advocate for the Applicant submitted that there is no evidence to connect the Applicant with the said crime. The FIR was lodged against unknown persons. The prosecution is relying on the statement of Durairaj Nadar, which was recorded on 22nd January 2016. Initially there was no identification parade. The Applicant is in custody from 22nd January 2016.

5. Learned APP opposed the application for bail. She relied on the statement of Durairaj Nadar recorded on 22nd January 2016, wherein the role has been assigned to the Applicant. It is submitted that the accused had assaulted the deceased by weapons as a result of which he sustained injuries and subsequently died. Reliance was also placed on the statement of Mahesh Mohite. He has stated that he knew Annasaheb Gholave and Ananda @ Baban Parab. He further stated that he had found a sword. He further stated that on 19th January 2016 Ananda had collected the sword from him. He, therefore, submitted that the said sword is used in the said crime and the Applicant ought to have knowledge about the incident.

6. I have perused the documents on record. The Applicant's involvement is shown in the statement of Durairaj Nadar. The said witness has stated that other persons who assaulted the deceased, the third person had assaulted him by kick blows. However, there was no identification parade for a long period of time. The parade

has been conducted on 18th April 2017 after more than a year from the date of incident. The Applicant was arrested on 22nd January 2016. In any case, role attributed to the Applicant is that he had given kick blows. There is no other eye witness to the incident. The case which was registered against the Applicant has resulted in acquittal which is evident from the judgment and order passed by this Court which was pointed out by the learned advocate for Applicant. The investigation is complete and the charge sheet has been filed in the present case. Hence, bail can be granted to the Applicant.

7. Hence, I pass following order :

ORDER

- (i) Bail Application No.306 of 2017 is allowed;
- (ii) The Applicant is directed to be released on bail in connection with CR No.45 of 2016 registered with Dindoshi Police Station, Mumbai, on furnishing PR bond in the sum of Rs.30,000/- with one or more sureties in the like amount;
- (iii) The Applicant is directed to report the investigating officer of Dindoshi Police Station, Mumbai once in a month on every first Saturday between 11.00 a.m. and 1.00 p.m. till further orders;
- (iv) The Applicant shall not tamper with the evidence;
- (v) The Applicant should attend the Trial Court on the date of hearing.

(PRAKASH D. NAIK, J.)