

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 192 OF 2017
(FOR BAIL)
IN
CRI. APPEAL NO. 106 OF 2017**

- | | |
|--------------------------------|------------------------|
| 1. Rishikesh Ashok Bhagat, |] |
| Age 28 years |] |
| 2. Rajesh Ravji Patil |] |
| Age 31 years, |] |
| Both residing at Dahivali, |] |
| Taluka Karjat, Dist. Raigad |] |
| 3. Pramod Arun Lad |] |
| Age 31 years, |] |
| Residing at Jevali, Tal.Karjat |] |
| Dist. Raigad |] |
| (At present lodged in Taloja |] |
| Central Prison, Dist. Raigad) |] |
| |]..Applicants |
| | [Ori.Accused 5, 6 & 7] |

Vs.

The State of Maharashtra	]	.. Respondent
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Mr. Rahul S. Kate Advocate for Applicants
Mr. H.J. Dedia A.P.P. for the State
Mr. Uday Warunjikar Advocate i/b Mr. Rahul M. More Advocate
for PW 3 - intervenor

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**WITH
CRIMINAL APPLICATION NO. 193 OF 2017
IN
CRI. APPEAL NO. 107 OF 2017**

- | | |
|-----------------------------|---|
| 1. Dilip Shankar Shinde |] |
| Age 48 years, |] |
| 2. Karan Dilip Shinde |] |
| Age 29 years, |] |
| 3. Raju Govind Suvarne |] |
| Age 50 years, Occ: Driver |] |
| All Residing at Dahivali, |] |
| Taluka Karjat, Dist. Raigad |] |

(At present lodged in Taloja
Central Prison, Dist. Raigad)

] ..Applicants
[Ori.Accused 1, 3 & 4]

Vs.

The State of Maharashtra

]..Respondent

....
Mr. Yuwraj Patil i/b Mr. S.M.Sabrad Advocate for Applicants
Mr. H.J. Dedia A.P.P. for the State
Mr. Uday Warunjikar Advocate i/b Mr. Rahul M. More Advocate
for PW 3 - intervenor
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**CORAM : SMT.V.K.TAHILRAMANI AND
REVATI MOHITE DERE, JJ.**

DATED : FEBRUARY 24, 2017

ORAL ORDER [PER SMT. V.K.TAHILRAMANI,J.] :

1 Heard the learned counsel for the applicants, learned
A.P.P. for the State and learned counsel for the intervenor-
original complainant.

2 Criminal Application No. 192 of 2017 has been
preferred by original accused no.5 - Rishikesh Ashok Bhagat,
original accused no.6- Rajesh Ravji Patil and original accused
no.7 Pramod Arun Lad. Criminal Application No. 193 of 2017
has been preferred by original accused no.1 Dilip Shankar
Shinde, original accused no.3 Karan Dilip Shinde and original

accused no.4 Raju Govind Suvarne. These applicants have been convicted under Section 302 read with Section 149 and 147 and 148 of IPC. The applicants are now seeking bail.

3 It is the prosecution case that the applicants assaulted Arun Shinde at Karjat Kotwal Nagar Road and caused his death. We have gone through the evidence. There are three eye witnesses to the incident i.e. PW 1 Saddam, PW 2 Sangeeta and PW 3 Sonali. However, it is noticed that PW 1 Saddam and PW 2 Sangeeta have not supported the prosecution case. Thus, the case rests on the evidence of PW 3 Sonali. Sonali is the daughter of deceased Arun Shinde. She was residing at her matrimonial place at Shingdhol. Sonali has stated that the incident took place on 3.9.2009. She stated that she left for Shingdhol at about 12.30 p.m. to 1 p.m. along with her husband in a jeep and when they reached near Shriram Bridge, she noticed a crowd on the road. Hence, they stopped jeep. She saw her father was lying on the road. She saw original accused no.1 to 7 were assaulting her father. She has stated that accused no.2 Ashok Suvarne (non-applicant) delivered a blow of iron part on the head of her father, due to

which, her father fell down. Thereafter accused Ashok Suvarne again delivered 3 to 4 blows of iron part on the head of her father. She and her husband started shouting to save her father. On seeing them, all the accused ran away. Thus, on going through the evidence of PW 3 Sonali, it is noticed that she has not attributed any weapon to any of the present applicants. The main role is attributed to accused no.2 Ashok Suvarne. He was the only person who was holding a weapon. Moreover, it is seen that the incident has occurred on 3.9.2009 in the afternoon at about 1 p.m., however, statement of Sonali was recorded on 7.9.2009 which is evident from paragraph 15 of her evidence.

4 Mr. Warunjikar appearing for the intervenor-original complainant submitted that Sonali was in shock, hence, there is delay in recording her statement. However, on going through the evidence of PW 3 Sonali, it is noticed that Sonali has not stated anywhere that she was in shock and hence, she could not give her statement at the earliest. On the other hand, it is noticed that Sonali has stated that when the incident took place she was at the spot of the incident for 15 to 20

minutes. Police had come to the spot when she was at the spot of the incident. At that time, she did not tell the police about the incident. Thus, it is seen that Sonali had an opportunity to inform the police about the incident at the spot itself, but she has not done so. She was residing at Shingdhol which is hardly at a distance of one hour away from the place of the incident. Thereafter her evidence shows that they own a vehicle and driver was on duty. She has specifically stated that she thought of going to police station during the period from 4.9.2009 to 6.9.2009, however, she has not done so. Thus, delay in recording the statement of Sonali also raises some suspicion about her evidence.

5 The evidence of Sonali further shows that none of the applicants were armed with any weapon when they were assaulting her father. Thereafter she has stated that original accused no.2 Ashok Suvarne delivered blows with iron part on the head of her father after which her father fell down and thereafter Ashok Suvarne delivered 3 to 4 blows of iron part on the head of her father. Thus, her evidence prima facie shows that the present applicants may not have shared the common

object with Ashok Suvarne. Looking to this fact and the above facts, we are inclined to grant bail to the present applicants.

Hence, the following order:

ORDER

(1) Original accused no. 5 - Rishikesh Ashok Bhagat, original accused no. 6 - Rajesh Ravji Patil, original accused no. 7 - Pramod Arun Lad, original accused no.1 - Dilip Shankar Shinde, original accused no. 3 - Karan Dilip Shinde and original accused no. 4 - Raju Govind Suvarne to be released on bail on furnishing PR bond in the sum of Rs. 20,000/- (Rs. twenty thousand only) each with one or two sureties to make up the said amount;

(2) During the period the applicants are on bail, they shall report to Karjat Police Station on first Monday of every alternate month;

(3) Both these applications are allowed and disposed of in above terms.

(4) At this stage, learned counsel for intervenor seeks stay of this order. Request for stay is rejected.

[REVATI MOHITE DERE, J.]

[SMT.V.K.TAHILRAMANI, J.]