

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

CRIMINAL BAIL APPLICATION NO. 323 OF 2017

Aatish Bharat Thule ...Applicant

Versus

The State of Maharashtra ...Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 324 OF 2017**

Sanket Suresh More ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Amrish Salunke for the applicant.

Smt. J. S. Lohokare, APP for the respondent – State in BA/323/2017.

Smt. Veera Shinde, APP for the respondent – State in BA/324/2017.

CORAM : PRAKASH D. NAIK, J.

DATE : 6 JULY, 2017

P.C. :

. These are applications for bail. The applicants were arrested in connection with C.R. 155 of 2016 registered with Gamdevi Police Station, Mumbai for the offence punishable under sections 143, 144, 147, 149, 323, 302 of IPC.

2. It is the prosecution case that on 14 August, 2016, the deceased was apprehended as he had allegedly committed theft in

the locality. The accused allegedly chased and assaulted him. One of the accused who was juvenile had assaulted the deceased by giving blow of screw driver on the chest of the deceased. As a result of the assault the deceased died. The FIR was registered on 14th August, 2016. The applicants were arrested on 16th August, 2016. On completing investigation, the chargesheet has been filed.

3. Learned advocate for the applicants submitted that there is no evidence to connect the applicant with the said crime. They were arrested on suspicion, there is no direct evidence attributing assault to the applicants. The prosecution is relying upon the alleged extra judicial confession of the accused made to one Manish Lokhande. In his statement, it is stated that the accused had informed him that they were chasing the deceased and he was being assaulted. It is also mentioned that the co-accused Mayur informed him that he gave a blow on his chest by a screw driver.

4. Thereafter, police came on the spot and the injured was taken to hospital. It is submitted that taking the said statement as it is, the primary role of assault by weapon is attributed to accused Mayur who happens to be juvenile in conflict with law and he has been granted bail.

5. Learned APP submitted that on account of force used by the applicants / accused, and assault by weapon, the deceased has expired. There was no reason for the applicants /accused to take law in their hands and assault deceased.

6. Perused the chargesheet which has been annexed to the application. There is no specific role attributed to the applicants. The primary role of assault is assigned to co-accused Mayur who happened to be juvenile and has been granted bail. The statement of Manish Lokhande which refers to the alleged extra judicial confession was recorded belatedly on 22nd September, 2016. The investigation is complete and chargesheet has been filed. Further custody of the applicants is not necessary. The applications, therefore, deserve to be allowed.

:: ORDER ::

(i) Bail application No.323 of 2017 and Bail application No.324 of 2017 are allowed.

(ii) The applicants are directed to be released on bail in connection with C. R. 155 of 2016 registered with Gamdevi Police Station, Mumbai on furnishing P.R. Bond in the sum of

Rs.20,000/- (Rupees Twenty Thousand only.) with one or more sureties in the like amount.

- (iii) The applicants are directed to report Gamdevi Police Station, Mumbai once in a month on first Saturday of the month between 11.00 am to 1.00 pm till further orders.
- (iv) Applications stand disposed of.

[PRAKASH D. NAIK, J.]