

Anand

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

BAIL APPLICATION NO.487 OF 2017

Bhivsen Shankar Badekar & anr. .Applicants

Vs.

The State of Maharashtra .Respondent

**WITH
CRIMINAL APPLICATION NO.226 OF 2017
(For Intervention)**

**IN
BAIL APPLICATION NO.487 OF 2017**

Manohar Dhondu Karnuk .Intervenor

IN THE MATTER BETWEEN

Bhivsen Shankar Badekar & anr. .Applicants

Vs.

The State of Maharashtra .Respondent

Mr.Rahul Arote i/b. Mr.Rishi Bhuta, Advocate, for the Applicant
Mr.S.S.Pednekar, APP, for the Respondent – State
Mr.M.S.Mohite i/b. Mr.Ashish Sawant, Advocate, for the
Intervenor

CORAM : REVATI MOHITE DERE, J.

DATE : 25.04.2017

P.C.

. Heard learned counsel for the Applicants and the
learned APP for the Respondent – State.

2. By this Application, the Applicants seek their

enlargement on bail in connection with C.R.No.85 of 2016 registered with the Karjat Police Station, District - Raigad, for the alleged offences punishable under Sections 302, 326, 324, 323, 341, 147, 148, 149, 427 & 504 of the Indian Penal Code (For short "IPC").

3. Learned counsel for the Applicants submits that the incident in question has taken place on the spur of the moment. He submitted that the weapons used in the commission of the alleged offences were lying at the spot. He further submitted that no offence punishable under Section 302 of the IPC is made out in the facts of the case. According to the learned counsel, a cross case was also registered from the Applicants' side as against the Complainant and others and that the same was registered vide C.R.No.87 of 2016, with the same police station. He submitted that there is no recovery against any of the Applicants and that neither of the Applicants have any antecedents.

4. Learned APP opposes the Bail Application. He submitted that the Applicants have been named by the injured - Pravin and by some of the eye witnesses. Learned counsel for the Intervenor supports the submission advanced by the learned APP.

5. Perused the papers.

6. The incident in question has taken place on 20.05.2016. It is alleged by the Complainant – Manohar Karnuk, and that at about 7.30 p.m., his brother Kisan Karnuk (deceased) and nephew – Pravin had gone to check the kiln (Bricks). According to the Complainant, Kisan and Pravin were excavating sand from the area near the brick kiln with the help of JCB machine, and that the same was objected to by the accused, pursuant to which, there was an altercation between the two groups. According to the Complainant, on hearing the altercation, he and his family members rushed to the spot and saw that the accused were assaulting Kisan and Pravin with iron rods and heavy wooden logs. In the said incident, both, Kisan and Pravin sustained grievous injuries and some of the other family members also received injuries. According to the Complainant, when Kisan and Pravin were being shifted to the hospital in a car, the Applicants and other accused stopped the car, damaged the car and demanded that the injured persons be removed from the car. Kisan, who had sustained a fracture of the skull, succumbed to the said injury on 22.05.2016. The statement of injured-Pravin clearly shows that the Applicants were present at the spot at the time of the incident and that they had assaulted

Kisan and others. Even in the second incident, the Applicants are stated to have been present. There are statements of some of the eye witnesses, who have named the Applicants. A perusal of the statement shows that while shifting Kisan and Pravin to the hospital, the Applicants came to the spot, damaged the car so that the injured could not proceed for treatment to the hospital.

7. Considering the material on record, this is not a fit case to enlarge the Applicants on bail. Hence, the Bail Application stands rejected.

8. In view of disposal of the Bail Application, the Intervention Application does not survive and the same stands disposed of accordingly.

9. 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.

(REVATI MOHITE DERE, J.)