

Anand

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

BAIL APPLICATION NO.526 OF 2017

1. Sunil Ramchandra Charoskar .Applicants
2. Sandeep Ambadas Zalte

Vs.

The State of Maharashtra .Respondent

Mrs.Aisha M. Zubair Ansari, Advocate, for the Applicants
Mrs.Rutuja Ambekar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 25.04.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicants seek their enlargement on bail in connection with C.R.No.I-206 of 2016 registered with the Ghoti Police Station, Nashik(Rural), for the alleged offences punishable under Sections 302, 323, 504 r/w.34 of the Indian Penal Code.

3. Learned counsel for the Applicants submits that the Applicant No.1, a Police Head Constable and Applicant No.2 a Police Constable were attached to the Ghoti Police Station at the relevant time. She submits that with regard to the incident of

19.10.2016, the Applicant No.1 has also lodged a complaint which is registered vide C.R.No.208 of 2016 by the Sarkarwada Police Station for the alleged offences punishable under Sections 307, 323, 353, 341, 324, 147, 148, 149 & 117 of the Indian Penal Code. She submits that in the said incident, the Applicants have received injuries. She submits that the Applicants have been in custody since 21.11.2016 and that investigation is complete and charge-sheet is filed.

4. Learned APP opposes the Application. She submits that no doubt there is a cross case filed by the Applicant No.1 as against the deceased and others, however, the fact remains that the Applicants had raided the said spot where illicit liquor was being sold, without any patrolling order. She does not dispute the fact, that the Applicants are alleged to have assaulted the deceased with fist and kick blows and that no weapon was used in the assault.

5. Perused the papers.

6. It is not in dispute that the Applicant No.1, a Police Head Constable and the Applicant No.2, a Police Constable were

attached to the Ghoti Police Station, at the relevant time. According to the Complainant - Dattu Dhondu Dagale on 19.10.2016 at about 5.00 p.m., two police personnels had come to the spot and called Balu (deceased). He has alleged that the Applicants abused him as according to them, he was under the influence of alcohol. He has further alleged that when the Applicants mounted assault on Balu, one Kalu Khodke tried to intervene, but he could not succeed. According to the Complainant, due to the assault, Balu became unconscious, as he had sustained bleeding injuries on his head. He has stated that in the meantime, Laxman Bodake, Shivram Mengal and other villagers came to the spot and took Balu to the Primary Health Centre where he was declared dead. It appears that the deceased died due to head injury. The post mortem report shows that the deceased had sustained eight injuries; one lacerated wound, six contused abrasions, some being multiple and one abrasion. According to the eye witnesses, the Applicants assaulted the deceased with fist and kick blows. With respect to the same incident, on 21.10.2016, the Applicant No.1 has lodged a complaint with the Sarkarwada Police Station. In the said complaint, it is alleged by the Applicant No.1 that when he was on patrolling duty and had gone to Thakurwadi, in particular, to

the house of Balu Khodake, the Applicants noticed that Balu was in the process of distilling illicit liquor. It is alleged by the Applicant No.1 that as there was no range, he could not contact the police station. He has further stated that 15-20 persons gathered on the spot and asked them not to raid the premises of Balu Khodake and that they should delete the photographs taken by them. According to the Applicant No.1, at that time, Devram Khodake abused them and assaulted them with fist and kick blows. It is alleged by the Applicant No.1 that they were locked up in a room, pursuant to which they became unconscious and that when they regained consciousness, they found themselves in Bitko Hospital, Nashik road. Pursuant to the same, the Applicant No.1 lodged C.R.No.100 of 2016 with the Sarkarwada Police Station alleging offences punishable under Sections 307, 333, 353, 341, 324, 143, 147, 148, 149, 117, as against the deceased and others. Investigation is complete and charge-sheet is filed. The Applicants have been in custody since 21.11.2016.

7. Considering the aforesaid, the Application is allowed and the Applicants are enlarged on bail on the following terms & conditions:-

O R D E R

- (i) The Applicants be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/- each with one or two sureties in the like amount;
- (ii) The Applicants shall attend the concerned Police Station on the **first Monday of every month** between **11:00 a.m. to 12:00 noon** till the conclusion of the trial;
- (iii) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The Applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) The Applicants to cooperate with the conduct of the trial;
- (vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)