

Anand

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

BAIL APPLICATION NO.585 OF 2017

Omkar Sunil Raut .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.K.S.Patil, Advocate, for the Applicant
Mr.S.S.Pednekar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 18.07.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.252 of 2016 registered with the Paud Police Station, Pune, for the alleged offences punishable under Sections 302, 307, 326, 143, 147, 148, 149 of the Indian Penal Code, under Section 4 , 27 of the Arms Act and under Sections 37(1)(3) & 135 of the Bombay Police Act.

3. Learned counsel for the Applicant submits that although there are five eye witnesses to the said incident of assault dated

14.10.2016, the statements of the eye witnesses were recorded belatedly. He submits that the statements of two eye witnesses i. e. Pratik Satav and Pramod Pol, have been recorded after almost 15 days of the incident. He submits that the version given by each of the eye witnesses, is contrary to each other, and as such, the ocular evidence does not inspire confidence. He further submits that even the recovery of blood stained clothes, at the instance of the Applicant is doubtful, considering the fact, that the said recovery is from a open space on 19.10.2016.

4. Learned APP opposes the Application. He submits that the Applicant has been named by three eye witnesses i. e. Tejas Dhankude – injured eye witness in his supplementary statement and by Pratik Satav and Pramod Pol. He submitted that the evidentiary value of these statements will be considered at the time of trial. He further submits that there is recovery of blood stained clothes at the instance of the Applicant.

5. Perused the papers. The incident has taken place on 14.10.2016 at about 11.00 p.m.. It appears that Shahistekhan had informed the Complainant about the incident, pursuant to which the aforesaid complaint was lodged. Admittedly, the Complainant –

Dattatraya Satav is not an eye witness to the incident. There are five eye witnesses to the said incident dated 14.10.2016. As far as Shahistekhan is concerned, he has not named the Applicant. The injured – Tejas Dhankude, who was present with the deceased – Ganesh Dedge, at the time of the incident has stated that 8-10 persons had come to the spot and that the said persons were armed with koyta, swords and that the said persons assaulted the deceased – Ganesh. He has stated that he too was assaulted with fist and kick blows, pursuant to which he fell down. The injured – Tejas has in his supplementary statement dated 30.10.2016, named the Applicant alongwith others, as being armed with koyta and stones and chasing them. The third eye witness – Baburao Ashok Manshetty's statement was recorded on 20.10.2016. He has stated that he had seen the incident, however, out of fear, he ran away from the spot and went to his house. As far as Pratik Satav and Pramod Pol are concerned, their statements were recorded on 28.10.2016. Both of them have disclosed the Applicant's name, as being present at the spot alongwith other co-accused and being armed with koyta and sticks. Ganesh Dedge died due to cardiorespiratory arrest due to traumatic and hemorrhagic shock due to multiple grievous injuries. No doubt, some of the witnesses statements have been recorded belatedly, but the fact remains, that the Applicant has been named in the said statements. The

evidentiary value of the said statements will be considered during trial. Apart from the said material, there is recovery of blood stained clothes at the instance of the Applicant.

6. Considering the aforesaid, this is not a fit case to enlarge the Applicant on bail. Hence, the Application stands rejected & disposed of.

7. 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.)