

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 610 OF 2017**

Mahesh Malikarjun Sungar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Umesh R. Mankapure for the Applicant

Ms. S. S. Kaushik, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 12th APRIL, 2017

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 214 of 2016 registered with the Sangli Rural Police Station, Sangli, for the alleged offences punishable under Sections 302, 201 r/w 34 the Indian Penal Code.

3. Learned Counsel for the applicant states that the prosecution case rests on circumstantial evidence and the circumstances are extra-

judicial confession made by the applicant to his father and last seen evidence.

4. Learned A.P.P opposed the application.

5. Perused the papers. It appears that the applicant has made an extra-judicial confession to his father Mallikarjun Sungar. He has stated that co-accused Manju Dada and his friend had held one person's hand and were taking him towards the sugarcane crops and that they were quarreling loudly. The said witness has stated that the applicant further disclosed that the person who was on the Pulsar motorcycle i.e. the deceased started giving filthy abuses to Manju Dada and his friend and was assaulting them with fist and kick blows, as a result of which, Manju Dada and his friend held the deceased and took him towards the sugarcane crops. The applicant was on a cycle and had parked his cycle near a coconut tree. Manju Dada is further alleged to have stated that the deceased was harassing him for a long time and started abusing him. Manju Dada is alleged to have disclosed that he would not spare him today and held his neck. Thereafter, Manju Dada is alleged to have told Shiva that the deceased would not be spared today. Pursuant thereto, Shiva assaulted him on his private part.

Thereafter, Manju Dada is stated to have asked the applicant to bring a stone. The applicant was scared, however, he brought the stone and gave it to Shiva, who in turn, handed it over to Manju Dada. It is Manju Dada, who threw the stone on the deceased's head. As the said person was shouting, Shiva picked up another big stone and threw it on the deceased's head.

6. A perusal of the extra-judicial confession shows that the co-accused Manju Dada and Shiva were throughout with the deceased and that the quarrel was between the said two persons on the one side and the deceased on the other. In the said quarrel, co-accused Manju Dada and Shiva are alleged to have thrown the stone on the deceased's head. The applicant has not been attributed any specific overt act, except for having handed over the stone to Shiva, who in turn, handed it over to Manju Dada. The last seen statement of Santosh Jadhav shows that the deceased was last seen in the company of two persons. From the extra-judicial confession, it appears that the said two persons were co-accused Manju Dada and Shiva. It appears that there is recovery of clothes at the instance of the applicant, but the same are not blood-stained.

7. Considering the aforesaid and the role played by the applicant, who is only 18 years of age, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- (iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The applicant shall inform his latest place of residence and mobile contact number 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 applicant to cooperate with the conduct of the trial.

8. The application is allowed in the aforesaid terms and is accordingly disposed of. The other co-accused shall not claim parity.
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.
10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.