

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.698 OF 2017

Prahlad Raghunath Madhavi	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Rajiv Patil, Senior Advocate, i/by Sanchita Thakur for applicant.
Mr.Arfan Sait, APP, for State.
Mr.Pankaj N. Ghatkar, API, Bhiwandi Taluka Police Station, Thane Rural, present.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 24th July 2017

PC :

1. This is an application for bail in connection with CR No.I-205 of 2015 registered with Bhivandi Taluka Police Station, District Thane for offences punishable under Sections 302, 143, 147, 148, 149, 336, 323, 504 and 506 of Indian Penal Code and under Sections 3, 4 and 25 of Arms Act. The Applicant was arrested on 19th August 2015. The investigation is complete and charge sheet has been filed.

2. The prosecution case is that Raju Rama Madhvi and Nitesh Patil caught hold of the hands of Satyam Shyam Karbhari. The accused no.1 Aatish Patil gave blow of Gupti. The Applicant took up a stone and threw the same on the left leg of the deceased. The accused no.2 also gave a blow of knife. It is alleged that there was a scuffle between the accused and the complainant. The deceased tried to intervene and at that time he was assaulted by the accused.

3. Learned advocate for the Applicant submitted that the role attributed to the Applicant is that he assaulted the deceased by marble

tile. Although in the complaint it was mentioned that the Applicant had thrown a stone on the leg of the deceased, subsequently it is alleged that the Applicant had thrown marble tile on the leg of the deceased. It is further submitted that several other accused have been granted bail by this Court. It is submitted that the accused Nitesh Patil who was allegedly holding the hand of the deceased and facilitated the assault by the co-accused, has been granted bail by this Court vide order dated 22nd December 2016 in Bail Application No.2285 of 2016. Other persons who were not attributed the role of assault and allegedly present at the scene of offence, were also granted bail. It is submitted that the Applicant is in custody since the date of arrest and further detention is not necessary.

4. Learned APP strongly opposed the application for bail. It is submitted that presence of the Applicant at the scene of offence is established by the prosecution witnesses. The Applicant has been attributed the role of assaulting the deceased by throwing a marble tile on his leg, which resulted in fracture. He pointed out the post mortem report which indicates that the deceased had sustained fracture. He further submitted that charge has been framed against the Applicant. The co-accused were granted bail who were not attributed the role of assault and, therefore, the Applicant cannot claim parity.

5. On perusal of the charge sheet, it is evident that the Applicant has been attributed the role of assault by marble tile on the leg of deceased. It is also required to be noted that the person who caught hold of the deceased and facilitated the assault, had been granted bail by this Court by order dated 22nd December 2016. It is debatable whether the Applicant shared common intention to murder deceased since he had intervened in the quarrel subsequently. Considering the role that has been assigned to the Applicant, bail can be granted to the

Applicant. It is clarified that the application for bail of the Applicant is considered in view of the role that has been attributed to the Applicant.

6. Hence, I pass following order :

ORDER

- (i) Bail Application No.698 of 2017 is allowed;
- (ii) The Applicant is directed to be released on bail in connection with CR No.I-205 of 2015 registered with Bhivandi Taluka Police Station, District Thane, on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The Applicant is directed to report the investigating officer of Bhivandi Taluka Police Station, District Thane once in a month on every first day of the month between 11.00 a.m. and 1.00 p.m. till further orders;
- (iv) The Applicant shall not tamper with the evidence and/or influence the witnesses in any manner whatsoever;
- (v) The Applicant shall attend the Trial Court during hearing of the case and shall not delay the trial in any manner whatsoever;
- (vi) The application is disposed of.

(PRAKASH D. NAIK, J.)

MST