

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.732 OF 2017

MRS.SUREKHA@SUJATA PANDHARINATH)
BARADE)

MRS.INDU @ SARITA VITTHAL BARADE)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Pankaj Kavale, Advocate for the Applicants.

Ms.Veera Shinde, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 8th NOVEMBER 2017

P.C. :

1 Applicants/accused in Crime No.90 of 2016 registered with Police Station Padgha, Thane, for offences punishable under Sections 302, 307, 324, 143, 147, 148, 149, 504 and 506 of the Indian Penal Code (IPC), by this application, are seeking their release on bail during pendency of the trial.

2 The learned advocate appearing for applicant/accused argued that co-accused Manjula Barade, having similar role as is ascribed to present applicants / accused, is released on bail by this court vide order dated 6th February 2017 passed in Criminal Bail Application No.2333 of 2016, and therefore, present applicants / accused are also entitled for similar treatment. He argued that it cannot be said that present applicants / accused were members of the unlawful assembly and that the said unlawful assembly was formed for commission of murder of Anjanibai Namdeo Patil.

3 The learned APP opposed the application by contending that the offence is punishable with life or death penalty, and therefore, applicants / accused are not entitled for bail.

4 I have carefully considered the rival submissions and also perused the charge-sheet as well as the order dated 6th February 2017 passed in Criminal Bail Application No.2333 of 2017 by Hon'ble Smt.Justice Sadhana S. Jadhav.

5 The First Information Report (FIR) is lodged by Vivek Vishnu Patil – one of the eye witnesses and the victim of the crime in question. According to the prosecution case, Anjanibai Namdeo Patil came to be murdered by accused persons by forming an unlawful assembly with a common object of committing her murder.

6 The charge-sheet revealed that the prosecuting party as well as accused persons were residents of the same locality. There was dispute between them over claiming of possession and ownership of an entire plot of land situated in front of their houses. First Informant Vivek reported that on 6th May 2016, accused Vitthal Barade along with co-accused from Barade family came near the house of his uncle Namdeo Patil. At that time, they were armed with wooden logs, sticks and an axe. He further reported that all accused persons assaulted members of the prosecuting party and in that murderous assault, Anjanibai Namdeo Patil succumbed to injuries suffered by her.

7 Co-accused Manjula Barade is released on bail by this court as noted in foregoing paragraph. According to the prosecution case, said co-accused Manjula Barade had assaulted First Informant by a stick. So far as present applicants / accused are concerned, it is averred by the prosecution that applicant Surekha @ Sujata was holding a stick and she gave a blow thereof on right hand of the First Informant. The prosecution is alleging mere presence of applicant Indu @ Sarita on the spot. It is, thus, clear that, role attributed to applicant Surekha @ Sujata is similar to the role allegedly played by co-accused Manjula Barade, who is released on bail by this court. Role attributed to applicant Indu @ Sarita is her mere presence on the scene of occurrence. In this view of the matter, on the principle of parity, both applicants / accused deserve the same treatment, as is given to co-accused Manjula Barade, vide order dated 6th February 2017 passed by this court in Criminal Bail Application No.2333 of 2016. As such, the order :

ORDER

- i) The application is allowed.
- ii) Applicants / accused in Crime No.90 of 2016 registered with Police Station Padgha, Thane, for offences punishable under Sections 302, 307, 324, 143, 147, 148, 149, 504 and 506 of the IPC, are ordered to be released on bail on their executing P.R.Bond in the sum of Rs.25,000/-, and on furnishing one or two sureties in like amount, by each of them.
- iii) The application is disposed of.

(A. M. BADAR, J.)