

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 962 OF 2017

Shantaram Namdeo Kokane

..Applicant

Vs.

The State of Maharashtra

..Respondent

Mr. Aniket Nikam i/b Mr. Aashish Satpute, for the Applicant.

Mr. A. P. Palkar, APP, for the Respondent.

CORAM :- **T. V. NALAWADE, J.**

DATE :- **AUGUST 23, 2017.**

P. C.:

The application filed for bail in C. R. no.154 of 2015 registered with Junnar Police Station, Pune for the offences punishable under Section 302, 323 etc of the Indian Penal Code. Both sides are heard. Papers of investigation are made available for perusal of this Court.

2 The deceased was the uncle of the first informant. She is also Police Patil of village Ajanwale, Taluka Junnar. The present Applicant is a son of deceased Namdeo. There was dispute

between the deceased and the present Applicant as the deceased was not allowing the present applicant to cultivate the land and deceased was not giving even crop share to the present Applicant.

3 The incident in question took place on 14th November, 2015 in the disputed field. The present Applicant and his sister were present in the field and quarrel started. During quarrel, injury was sustained by the sister of the Applicant and allegation is made that the present Applicant assaulted the deceased by using sickle. It is contended by the informant Gunabai that when she went to the field after learning about the incident, the Applicant was present in the field with weapon and deceased was lying in the field in injured condition. In the First Information Report, she has also mentioned that on enquiry, the present Applicant disclosed the incident and admitted that he had assaulted Namdeo. There is one more extra judicial confession, given to the Mother by the present Applicant.

4 The learned counsel for the Applicant submitted that from statements of Hona Konkane and informant it can be presumed that Hona had given information to Gunabai and after

that Gunabai had reached the field. The learned counsel submitted that Hona Konkane's version is different and it shows that the Applicant was not present in the field when Hona reached the field. This so called inconsistency cannot be considered by this Court at this stage. It is the matter of appreciation of material by the Trial Court and it is only the Trial Court which is expected to do the scrutiny which the counsel is expecting from this Court.

5 If contents of FIR are seen, it can be said that it will be indirectly direct evidence. Immediately after the assault, the present Applicant was found near the injured, he was holding weapon and then he admitted that he had assaulted deceased.

6 The witnesses are close relatives of the present Applicant. The postmortem report shows that as many as 41 injuries were found on the dead body and injury no.41 shows that 3 incised injuries were clubbed by the Medical Officer. Most of the injuries were incised injuries. The learned counsel for the Applicant submitted that there is possibility that in a rage anger, the Applicant must have assaulted deceased as his sister was injured. This contention cannot be accepted at least at this stage,

in view of the number of injuries found on the dead body. Further, there is clear possibility of tampering with the prosecution witness from the hands of the present Applicant. This Court holds that it is not possible to grant the discretionary relief to the Applicant. The application is rejected. The Trial Court is expected to expeditiously dispose of the case and in any case within six months. If within six months it is not disposed of, there is liberty to the Applicant to move for bail in this Court.

(T.V.NALAWADE, J.)