

BAIL APPLICATION NO.926 OF 2016

.....
Mr. Harshwardhan Akolkar for the Applicant
Mr. Prashant Jadhav APP for the State.

DATED: 5th July, 2017.

P.C.:-

2. Mr. Harshwardhan Akolkar the learned Counsel for the Applicant has submitted that the co-accused, including the main accused who was allegedly involved in inflicting injuries on the deceased Karriapa

are released on bail. The learned Counsel for the Applicant submits that the Applicant was not involved in inflicting any injury on the deceased. He has submitted that the only injury which is alleged to have been inflicted by the Applicant is on the first informant and there is no material on record to indicate that the said injury was grievous in nature. He has submitted that the Applicant is in custody since 22.3.2015 and considering the role attributed to the applicant, the fact that the other co-accused have already been released on bail, the Applicant too should be released on bail.

3. Mr.Prashant Jadhav the learned APP submits that the Applicant is involved in 9 cases, which are of serious nature. He further submitted that the Applicant and others had assembled with an intention of causing death of Karriapa. The leaned APP further submits that the Applicant was armed with a weapon and hence the role played by the Applicant is not similar to that of the other co-accused, who have been released on bail by this court.

4. I have perused the records and considered the submissions advanced by the learned Counsel for the Applicant and the learned APP for the State. The record prima facie reveals that one Shri. Mallikarjun

had lodged the FIR on 31.10.2014 alleging that on the same night at about 10.30 p.m the applicant and the other co accused had assembled out side his house. He has stated that the Applicant and the others were armed with weapons such as iron rods, glass bottles, Koyta etc. and that they had pelted stones and bottles towards his house. When his uncle, Karriapa, was proceeding towards, the police station to lodge the complaint against the said persons, the co-accused Hemant Naik and Govind Naik assaulted with iron rods. When the first informant tried to intervene, the co-accused Govind Naik assaulted him with an iron rod and the Applicant herein also inflicted a blow of Koyata on his shoulder. Based on the aforesaid report, Crime No.260 of 2014 was registered with the Bund Garden Police Station, Pune.

5. The record prima facie reveals that said Karriapa expired on 7th April 2015 i.e. about 6 months from the date of the incident. Material on record does not prima facie indicates that the Applicant was involved in inflicting any injury on said Karriapa. The co-accused Hemant Naik and Govind Naik, who are allegedly involved in inflicting injuries on Karriapa are released on bail. The only role attributed to the Applicant is that he had inflicted injury on the first informant. The medical report prima facie indicates that the first informant had

sustained an injury on his right shoulder. The medical report, which is produced before me for perusal, does not indicate that the said injury was grievous in nature. Considering the above facts, and also considering the fact that the co accused, Naresh, Govind, Sanjay and Vijay, who have played similar role have been released by this Court, in my view the Applicant is entitled for bail on the ground of parity. In the light of above he cannot be declined bail solely on the ground of his antecedents. His past criminal record, in my considered view, may at the most warrant stringent conditions.

6. Under the circumstances, and in view of the discussion (supra) the Application is allowed. The Applicant is ordered to be enlarged on bail on the following terms and conditions:-

(a) The Applicant be enlarged on bail on executing P.R bond in the sum of Rs.50,000/- (Rs. Fifty Thousand only) with one or two sureties in the like amount.

(b) The Applicant shall report to Bund Garden Police Station on **1st and 3rd Monday** of every month between 11.00 am to 12.00 noon till the conclusion of the trial;

(c) The Applicant shall not visit Bund Garden area till the evidence of the first informant and the other eye witnesses is

recorded, except his visit to Bund Garden Police Station as stated above;

(d) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(e) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released 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;

(f) The Applicant to co-operate with the conduct of the trial;

(g) The Applicant to file an undertaking with regard to clauses (ii) to (v), in the trial Court, within two weeks of his release;

(h) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

(ANUJA PRABHUDESSAI, J.)