Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1059 OF 2017

Chetan Maruti Shedge ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Kuldeep V. Nikam, for the Applicant.
Ms. A.A. Takalkar, A.P.P. for the State/Respondent.

CORAM: T.V. NALAWADE, J
DATED: 18th August 2017

PC:-

1. The Application is filed for bail in Crime No.341 of 2016 registered in Warje-Malwadi Police Station, District Pune for the offences punishable under Sections 302, 143, 144, 147, 148, 149 of Indian Penal Code and Sections 4 (25) of Arms Act and Sections 37(1) r/w 135 of Bombay Police Act. Both sides are heard. Papers of investigation were made available to this Court for perusal.

2. The first information report was given by Dada alias Umesh Ashok Misal, a brother of deceased. The report was given on the basis of information supplied to him by the witnesses like Kumar Shekhar, Nirmal Shekhar, Bapu Yenpure etc. The incident had taken place within few minutes of leaving of the residence by Nilesh in the

presence of his brothers Dada. He had gone to public toilet to answer nature's call and there he was attacked. There was a motive like previous incident in which deceased Nilesh had given abuses to main accused Nitin when Nitin had quarrelled with a relative of Nilesh.

3. The material collected shows that Tatya Waghmare, Tushar Shinde, Kumar Nirmal, Balu Yenpure witnessed the incident as they were present at the same place at the relevant time. Tatya had given company to Nilesh and they together had gone to the toilet. In the presence of Tatya the accused Kumar, Chetan (present applicant), Vinod, Nitin and Akshay assaulted the deceased. Nitin and Akshay used choppers. The discloser was made by them to the brother of the deceased and FIR was given on 16th July 2016. The incident took place after 8.45 pm on 15th July 2016. The record of spot panchnama and other record is consistent with the allegations made.

4. The learned counsel for the Applicant submitted that the Applicant did not use any weapon and there is no other circumstantial evidence against the Applicant. The learned Counsel for the Applicant submitted that due to this reason the Applicant is entitled to get bail. In view of the material collected by police this Court holds that this statement cannot be accepted. The post-mortem report shows that as many as 41 injuries were found on the dead body and most of them were chopped wounds and incised wounds four injuries were abrasion and scratches abrasion. The post-

mortem report shows that many persons were involved in the incident and they brutally attacked the deceased. Due to attack which was made by using severe force, there were fracture of bones including of skull. The death took place due to traumatic and haemorrhage shock due to chop injuries. Due to the nature of material and number of injuries inflicted on the deceased, this Court holds that there is clear possibility of tampering with the prosecution witnesses at the hands of the Applicant. There will be danger to the life of the eye witnesses. In view of this circumstance, this Court holds that bail cannot be granted in favour of the Applicant. The provision of Section 34 of Indian Penal Code can be safely used in view of nature of material available against the Applicant in the present matter.

5. In the result, the Bail Application stands rejected.

(T. V. NALAWADE, J.)