

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.1279 OF 2017

Shashikant @ Sunil Namdeo Chavan	..	Applicant
Vs.		
State of Maharashtra	..	Respondent

**ALONG WITH
CRIMINAL APPLICATION NO.581 OF 2017**

Maruti Kisan Chavan	..	Intervenor
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In the matter between

Shashikant @ Sunil Namdeo Chavan	..	Applicant
Vs.		
State of Maharashtra	..	Respondent

Mr.Vikas B. Shivarkar for the applicant.

Mr.S.H.Yadav, Additional Public Prosecutor for the respondent.

Mr.Balwant Salunkhe h/f Mr.Satyavrat Joshi for the intervenor.

CORAM : T.V. NALAWADE, J.

DATE : 24th August 2017

P.C. :

1. The application is filed for relief of bail in C.R. No.265 of 2016 registered with Talegaon Dabhade Police Station for the offence punishable under Sections 302, 504, 506 read with 34 of the Indian Penal Code and Section 4(25) of the Arms Act. Both the sides are heard. Papers of investigation were made available for perusal of this Court as the charge sheet is already filed.

2. The crime is registered on the basis of report of one Maruti Chavan but he was not witness to the incident of murder. The incident

took place on 10th August 2016 at about 12.30 p.m. On that day, the eye witness Pravin Chavan and deceased were proceeding on motorcycle. They were intercepted by the present applicant and three other persons. Maruti Chavan was using sharp weapon which is agricultural implement of Kulav. The present applicant was holding iron bar and other two persons were holding iron bars. As they were in four number and they were assaulting with an intention to finish, somehow Pravin ran away but he witnessed the incident. He saw all the accused using weapons for assaulting Vishnu and Vishnu collapsed. They left the spot. Pravin Bhimrao Chavan returned to the place and saw that many bleeding injuries were inflicted. He contacted others and called on mobile to inform about the incident.

3. There is material to show that one Navnath Chavan, brother of Vishnu had seen these persons together and they said to him that they had already finished one and they had rushed at Navnath. Learned counsel for the applicant argued to show inconsistencies in the version of Navnath, Maruti and Pravin. These inconsistencies cannot be considered in the present proceedings and that will be dealt with by the trial Court. There is a material like circumstance that the applicant was arrested immediately on the same day. There was blood on his clothes and clothes were seized. Weapons, iron bars were recovered and seized subsequently but there was no blood on them. There is a material like motive and that can be seen in the statements of the many witnesses.

4. Learned counsel for the applicant himself drew to the attention of this Court to reports given by the witnesses against each other and that material can be used for motive in the present crime.

5. In the post mortem report and MLC injuries were noted. There were three chops wounds. Chops wounds were mainly on the head portion. There were three abrasions which were present on the face and the shoulder. Death took place due to these injuries.

6. Learned counsel for the applicant submitted that iron bars could not have been caused such injuries and there is possibility of false implication of the present applicant. This submission is not at all acceptable. Learned counsel for the applicant submitted that the sharp weapon is not used by the present applicant. The provision of Section 34 of the Indian Penal Code is available against the present applicant and there are injuries of aforesaid nature. Learned counsel for the applicant submitted that in respect of two persons, out of four persons, investigating officer has filed a Report under Section 169 of the Code of Criminal Procedure, 1973 and that creates probability of false implication in this matter. This proposition is also not acceptable.

7. It is the subjective satisfaction of the investigating officer and on that basis, he acts. The Court on its own can use the provisions of Section 319 of the Code of Criminal Procedure and the Court can direct the other persons also to be tried along with the accused against whom the charge-sheet is filed. Due to the circumstances of case and nature of incident, this Court holds that there is a possibility of tampering with the prosecution witnesses. There is only one eye witness. There will be danger to the life of the witness if the accused is granted bail. This Court holds that it is not a fit case to grant bail to the applicant. Application is

rejected. Another application for intervention is allowed and disposed of.

T.V. NALAWAE, J.