

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CRIMINAL APPELLATE JURISDICTION*****CRIMINAL BAIL APPLICATION NO. 1357 OF 2017****Pandurang Tukaram Marathe****..... Applicant****VERSUS****The State of Maharashtra****..... Respondent**

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

Mr.A.A.Palkar, A.P.P. for the State.

CORAM : T.V.NALAWADE, J.**DATE : 31st AUGUST, 2017****P.C.**

The application is filed for bail in C.R. No. 1151 of 2016 registered in Loni Kalbhor Police Station, Pune for the offences punishable under sections 302, 120-B etc. of IPC. The papers of investigation were made available for the perusal of this court.

2. The crime was registered on the basis of the report given by one Ajinkya Shivaji Gaikwad. Shivaji Gaikwad has some rivalry with Pappu alias Sunil Dattatray Gaikwad and they had incident of quarrel in the past. The incident in question took place on 19th December, 2016 in the morning time. On that day, first Shivaji Gaikwad left home on motor cycle for Hadapsar, Pune and the first informant also started in his Toyota car on the same road. When his four wheeler

was following the motor cycle of the deceased, he noticed that one Scorpio vehicle was coming in speed and after that he could not see both the car and the motor cycle of his father. First he had suspicion of accident and so he proceeded towards the spot in his car. Then he noticed that eight persons named in the FIR were assaulting Shivaji Gaikwad by using weapons like swords, iron rod etc. When he tried to intervene, they gave him threat that they would finish him and so he ran away. After sometime he returned to the spot and he noticed that his father had sustained bleeding injuries and that he was unconscious. An attempt was made to save the life of Shivaji by shifting him to the Noble Hospital but doctor declared that he was already dead.

3. The P.M.Report shows that there were as many as 17 bleeding injuries on the body which were chopped wounds and puncture wounds. The injuries were found mostly on the head portion and those injuries caused fracture of skull bones. The death took place due to multiple chopped injuries.

4. The submissions made show that there will be only one eye witness but he has not named the present applicant as assailant. Learned A.P.P. drew attention of this court to the statement given under section 27 of the Evidence Act by one accused Meghraj Wahale. On the basis of the contents of that statement, learned

A.P.P. submitted that it is the case of conspiracy and the conspiracy was hatched inside the jail by present applicant and Pappu alias Sunil Dattatray Gaikwad and also Meghraj Wahale. The statement was recorded under section 27 of the Evidence Act of Meghraj Wahale and this circumstance cannot be ignored even at this stage. The statement made led to the recovery of three weapons but that material can be used against Meghraj Wahale.

5. Learned A.P.P. submitted that the present applicant was kept in the same barrack in jail with Pappu alias Sunil Dattatray Gaikwad and Meghraj Wahale and this circumstance can be used against them. Learned A.P.P. submits that Sudam Gaikwad was also kept in the said barrack of the jail and this circumstance will help the prosecution to prove that the conspiracy was hatched in the jail. Even at this stage, this court is not in a position to accept this contention when there is no material in that regard. The circumstance contended by the learned A.P.P. needs to be established and for that, there needs to be some material.

6. The applicant is behind bars since 27th December, 2016. It is not certain as to how much time will be required for the disposal of the case filed against the present applicant. So the application is allowed. The applicant is to be released on bail on his furnishing P.B. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand

Only). The applicant is not to tamper with prosecution witnesses. He is not to commit similar offences. He is not to enter the village of the complainant till the disposal of the case filed against him.

(T.V.NALAWADE, J.)