

Anand

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

BAIL APPLICATION NO.1515 OF 2017

Umesh Ramchandra Chaudhary .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.S.V.Marwadi i/b. Ms T.M.Khamkar, Advocate, for the Applicant
Ms J.S.Lohokare, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 22.08.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-02 of 2017 registered with the Satpati Police Station, District – Palghar, for the alleged offences punishable under Sections 302, 336, 323, 504 r/w 34 of the Indian Penal Code.

3. Learned counsel for the Applicant submits that the incident dated 31.12.2016 which took place at about 10.30 a.m., had taken place on the spur of the moment. He submitted that the medical case papers and the information disclosed to the Complainant, by one Tushar

Pagdhare, would indicate, that the deceased (Complainant's father) fell while working in the factory, as a result of which he sustained injuries. He submits that co-accused – Deepak has been enlarged on bail by the trial Court and that investigation is complete and charge-sheet is filed.

4. Learned APP opposes the Application.

5. Perused the papers. According to the Complainant – Niket Pagdhare, on 31.12.2016, at about 10.30 a.m., he received a call from his cousin – Tushar Pagdhare who disclosed to him, that his father – Prakash who was working in the factory, had fallen down and sustained an injury and that he had been taken to a government hospital at Satpati, for treatment. Pursuant thereto, the Complainant visited the hospital at Satpati, and thereafter, took his father, initially to the J.J.Hospital, and from there to the Nair Hospital and then to the Hinduja Hospital.

6. The Complainant has further alleged in the FIR, that when he again asked his cousin – Tushar Pagdhare, as to what had exactly happened in the factory, Tushar disclosed to him, that there was a quarrel between the Applicant and his brother – Deepak on the one hand and his father – Prakash on the other, that in the said quarrel, the

Applicant assaulted Prakash (deceased) with an iron pipe. A perusal of the panchanama shows that the weapon is not an iron pipe but an iron object with a closed base with a height of about 17 inches and width of 6 inches. It appears that when Prakash (deceased) was taken to the Government hospital, at Satpati, the history given was of 'a sudden fall'. The post mortem report (column 17) shows, that the deceased had sustained eight injuries i.e. on his eye, right wrist, lower lip, chin, left wrist and left hand. On internal examination, depressed comminuted fracture of left frontoparietal region of size 8 x 6 cm; Coronal suture fracture of right parietal region of length 7 cm was found. There are two eye witnesses to the incident. According to one of the eye witnesses – Sachin Pandurang Deo, on the day of the incident, there was a sudden quarrel which took place between the deceased – Prakash and the Applicant and co-accused – Deepak. He has alleged, that Deepak had given fist blows to Prakash, pursuant to which Prakash fell on the ground. He has stated thereafter, the Applicant picked up an iron pipe and assaulted Prakash with the same, pursuant to which, he became unconscious. The incident appears to be an outcome of a sudden quarrel. Whether or not, the deceased sustained an injury because of the fall on the iron object or whether the Applicant was responsible for the same, is a matter which will be decided by the trial Court. There are no

antecedents qua the Applicant. Investigation is complete and charge-sheet is filed. Hence, continued detention of the Applicant is not warranted. Accordingly, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions:-

ORDER

(i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs.25,000/-** with one or two sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned police station on the **1st Saturday of every month** between **10.00 a.m. to 11.00 a.m.** for a period of one year from the date of his release;

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

(iv) 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.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)