

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1620 OF 2017

SUMIT RAVINDRA SONAWANE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Prakash Wagh, Advocate for the Applicant.

Ms.J.S.Lohokare, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 10th NOVEMBER 2017

P.C. :

1 The applicant / accused in Crime No.67 of 2016 registered with Chembur Police Station, for offences punishable under Sections 302, 141, 142, 143, 146, 147,149, 323, 504 of the Indian Penal Code (IPC) resulting in registration of Sessions Case No.502 of 2016 pending on the file of learned Additional Sessions Judge, Mumbai, by this application, is seeking his release on bail during pendency of the trial.

2 Heard the learned advocate appearing for the applicant / accused. He argued that role of the present applicant / accused in the alleged crime is exactly identical with that attributed to co-accused Nitesh Raosaheb More, and therefore, the applicant / accused is entitled for bail. The learned advocate further argued that even if statements of eye witnesses are considered, then also it is not seen that the alleged incident amounts to the offence punishable under Section 302 of the IPC.

3 The learned APP opposed the application by contending that it is the applicant / accused who had called his friends on the spot after having quarrel with the deceased and then he along with all his friends assaulted the deceased as well as prosecution witnesses. The deceased succumbed to the injuries making out the offence punishable under Section 302 of the IPC.

4 I have considered the rival submissions and also perused the charge-sheet.

5 The FIR of this crime is lodged by Ashok Jadhav – brother of deceased Harischandra Jadhav. He is not an eye witness to the incident. Chandu Mohan Sherkar, Ramesh Shingadia, Vijay Jadhav etc. are eye witnesses to the incident in question as they were accompanying deceased Harischandra Jadhav at the relevant time. It is seen from eye witness account of the incident that after having a booze session, the deceased as well as prosecution witnesses were going by walking to Sindhi Society Club. In front of Trishul building Harishchandra Jadhav (since deceased) accidentally brushed the present applicant / accused. Then a quarrel and scuffle between them ensued. The present applicant / accused then made a telephone call and called his friends on the spot. It is stated by the prosecution witnesses that the present applicant / accused along with co-accused named Nitesh More had assaulted Harishchandra Jadhav (since deceased) by means of fist and kick blows and he was thrown on the ground by both of them.

6 Co-accused Nitesh More is released on bail by this court vide order dated 13th July 2017 in Bail Application No.1445 of 2017 (Coram : P.D.Naik, J.) by holding that prima facie, there appears to be no intention to commit murder of Harishchandra Jadhav (since deceased) by the accused persons. The case of the applicant / accused is standing at par with the case of co-accused Nitesh More, who is released on bail by this court vide order dated 13th July 2017. Hence the order :

ORDER

- i) The application is allowed.
- ii) The applicant / accused in Crime No.67 of 2016 registered with Chembur Police Station, for offences punishable under Sections 302, 141, 142, 143, 146, 147, 149, 323, 504 of the IPC) is ordered to be released on bail on his executing P.R.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount.
- iii) The applicant / accused is directed to report Chembur Police Station once in a fortnight on Saturday between 11.00 a.m. and 1.00 p.m. till further orders.

- iv) The applicant / accused should not tamper with the evidence and witnesses.
- v) The applicant / accused shall furnish his residential address and mobile phone number to the Investigating Officer of Chembur Police Station.
- vi) It is clarified that observations made in this order are only for considering this application for bail.
- vii) The application is accordingly disposed of.

(A. M. BADAR, J.)