

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1933 OF 2016**

Tanaji Bharoji Gaikwad & Ors.	...Applicants
Versus	
The State of Maharashtra	...Respondent

Mr. Aniket Nikam i/b Mr. Aashish Satpute for the Applicants

Mr. S. S. Pednekar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 29th MARCH, 2017

P.C. :

1. Heard learned Counsel for the applicants and the learned A.P.P for the State.

2. By this application, the applicants seek their enlargement on bail in connection with C.R. No. I-39 of 2014 registered with the Dindori Police Station, Nashik, for the alleged offences punishable under Sections 395, 396, 397, 302, 109, 143, 147, 148, 149, 324, 323, 427, 504 of the Indian Penal Code and under Section 135 of the Bombay Police Act.

3. Learned Counsel for the applicants states that although the

applicants have been named in the FIR along with other 46 accused, no overt act has been attributed to the applicants. He submitted that other co-accused who are similarly placed, have been enlarged on bail.

4. Learned A.P.P does not dispute the fact that no overt act has been attributed by the two witnesses i.e. Chintaman Dilip Gaikwad and Padma Chintaman Gaikwad. He submits that there are no antecedents as against the applicant.

5. Perused the papers. The incident in question has taken place on 27th March, 2014 at about 8:00 a.m. It is alleged that the accused persons i.e. 49 persons formed an unlawful assembly; went to the hotel of the complainant-Dhananjay Sonawane and committed the murder of the complainant's uncle-Ramesh Sonawane and an employee-Manoj Patil by assaulting them with sharp angles and wooden sticks. The accused persons are also alleged to have taken cash from the said hotel and the petrol pump and also stated to have caused damage to the hotel and its property. There are two eye-witnesses of the said incident i.e. Chintaman Dilip Gaikwad and Padma Chintaman Gaikwad. From a perusal of the statements of both

these witnesses, it is evident that both these witnesses have not attributed any overt act to the applicants in the assault on deceased-Ramesh Sonawane and Manoj Patil. No doubt, in a case of unlawful assembly, no overt act is required. However, that is a matter which will be decided by the trial Court. It also appears that similarly placed co-accused to whom no overt act has been attributed, have been enlarged on bail by the trial Court. There is no recovery against any of the applicants nor do the applicants have any antecedents.

6. Considering the aforesaid, the applicants deserve to be enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- each with one or two sureties in the like amount;
- (ii) The applicants shall attend the concerned Police Station on the first and third Saturday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

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

(iv) The applicants shall inform their latest place of residence and mobile contact numbers 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;

(v) The applicants to cooperate with the conduct of the trial;

(vi) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicants' bail.

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

7. 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.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.