

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CRIMINAL APPELLATE JURISDICTION*****CRIMINAL BAIL APPLICATION NO. 1907 OF 2017****Mahesh @ Mehra Shalik Vayale****..... Applicant
(Org. Accused No.3)****VERSUS****The State of Maharashtra****..... Respondent****ALONGWITH****CRIMINAL BAIL APPLICATION NO. 2233 OF 2017****Jayram Savlaram Bhoir & Anr.****..... Applicants****VERSUS****The State of Maharashtra****..... Respondent**

Mr.Sanjay S. Patil for the Applicant in BA/1907/2017.

Mr.Rahul Kate, i/b. Mr.R.D.Suryawanshi for the Applicants in BA/2233/2017.

Ms.Veena Shinde, A.P.P. for the State.

CORAM : A.M.BADAR, J.**DATE : 6th OCTOBER, 2017****P.C.**

Applicants Jayram Savlaram Bhoir and Aniket Jayram Bhoir in Criminal Bail Application No.2233 of 2017 and applicant Mahesh @ Mehra Shalik Vayale in Criminal Bail Application No.1907 of 2017 are accused in Crime No.I-63/2017 registered with Hill Line Police Station, Thane for the offences punishable under section 302 read with section 34 of the Indian Penal Code. By these applications,

they are seeking their release on bail after filing of the charge-sheet.

2. Heard the learned advocates appearing for the applicants. They argued that the co-accused named Hemant Satish Bhoir is already released on bail by this court vide an order dated 1st September, 2017 and role attributed to all applicants is similar in nature with that of Hemant Satish Bhoir who is released on bail by this court. It is further argued that even if case of the prosecution is accepted as it is then also it is seen that the offence cannot travel upto the one punishable under section 302 of the I.P.C. The incident in question took place without premeditation all of a sudden and during the course of quarrel between both parties. The deceased, according to the prosecution case died because of injuries suffered by him.

3. Learned A.P.P. opposes this application by contending that so far as applicants Jayram Savlaram Bhoir and Aniket Jayram Bhoir are concerned, the papers of investigation shows that they have committed murder of Lal Bhoir - father of the informant Haresh Bhoir and therefore the applicants are not entitled for relief.

4. I have considered the rival submissions and also perused the entire charge-sheet. The crime in question is registered on the basis of the report lodged by Haresh Bhoir who is also eye witness to the incident in question. As per his

version, he informed his father on 10th March, 2017 that the applicant Mr. Jayram Savlaram Bhoir has started laying foundation on ancestral land. Applicant Jayram is cousin of informant Haresh Bhoir. After getting message of his son Haresh Bhoir, his father Lal Bhoir (since deceased) immediately rushed to Ulhasanagar. Then Lal Bhoir along with his son Haresh went to the spot where applicants Jayram, Aniket and Mahesh @ Mehra Shalik Vayale were present. Co-accused Hemant Satish Bhoir was also present with applicants. He is already released on bail by this court.

5. According to first informant Haresh, his father Lal Bhoir then questioned applicant Jayram as to why Jayram is laying foundation on the ancestral land. Thereupon, according to the prosecution case, applicant Jayram started assaulting Lal Bhoir by means of fist and kick blows. Applicant Mahesh @ Mehra Shalik Vayale and co-accused Hemant Bhoir caught hold of the informant in order to prevent him from helping his father Lal Bhoir. Hemant and Mahesh are stated to have assaulted Haresh. Informant Haresh further stated that then Jayram dragged his father Lal Bhoir at some distance. Then applicant Aniket, applicant Mahesh @ as well as co-accused Hemant gave fist and kick blows to Lal Bhoir. According to informant Haresh then his father Lal Bhoir became unconscious and was declared dead by the doctor.

6. It is seen that applicant Jayram Bhoir on the date of incident itself lodged a report to the effect that Lal Bhoir (since deceased) and others came on the spot abused him and assaulted him by means of fist and kick blows. This report came to be registered as report of non-cognizable case and numbered as 506 of 2017.

7. The PM report shows that Lal Bhoir died because of hemorrhagic shock Except contusion on right lower leg of the deceased, there was no other external injury on his body. He suffered internal injuries.

8. Eye witness Jayesh has also deposed about assault on deceased Lal Bhoir by present applicants along with the co-accused Hemant Bhoir. Suffice to say that according to the prosecution case present applicants alongwith co-accused Hemant had assaulted deceased Lal Bhoir by means of fist and kick blows causing his death.

9. Co-accused Hemant Satish Bhoir in Bail Application No.1746 of 2017 applied for bail before this court and this court by order dated 1st September,2017 was pleased to release him on bail. Role attributed to present applicants and the one ascribed to co-accused Hemant Bhoir is identical and therefore on the

principle of parity, the applicants are entitled for bail. Therefore the order :-

ORDER

(a) 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;

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

(c) The Applicants shall inform their 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;

(d) The Applicants to cooperate in the conduct of the trial.

10. Both the applications are allowed in the aforesaid terms and is accordingly disposed of.

11. At this stage, learned advocates appearing for the applicants submits that initially the applicants be released on bail on cash bail in order to enable them to

arrange for sureties. Therefore, it is ordered that initially for the period of four weeks, on furnishing cash security of Rs.25,000/- by each of them, they be released on bail so as to enable them to arrange for sureties and to furnish sureties within said period.

(A.M.BADAR, J.)