

Anand

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

BAIL APPLICATION NO. 2241 OF 2017

Mallikarjun Shankar Hipparagi .Applicant
Vs.
The State of Maharashtra .Respondent

Mr. Rahul Kate i/b. Mr. R. A. Zade, Advocate, for the Applicant
Mr. A. A. Palkar, APP, for the Respondent – State

CORAM : A.S.GADKARI, J.

DATE : 09.11.2017

P.C.

. This is an application under Section 439 of Cr. P.C. for bail in CR No. 14 of 2017 registered with Jath Police Station, Sangli under Sections 302, 307, 324, 143, 147, 148, 149 & 504 of the Indian Penal Code.

2. It is the prosecution case that the Applicant and his family members on one side and the deceased – Pirgonda Patil and his family members on other side were having dispute over the landed property. On 26.01.2017 at about 8.00 a.m., the Applicant alongwith other accused persons assaulted the deceased – Pirgonda Patil with axe, iron rod and sticks. It is the allegation against the Applicant that he assaulted the deceased with axe on his head. Deceased succumbed to injuries on the same day while taking treatment. After completion of investigation, police have submitted charge-sheet.

3. Learned counsel for the Applicant submitted that the role attributed to the Applicant and others is same and similar. It is submitted that it is the accused No.2 – Girmalla Hippargi who has assaulted the deceased with an iron rod on his head and he has been granted bail by the trial Court. He, therefore, prayed that Applicant may be released on bail on the ground of parity.

4. Perused the charge-sheet. The statement of the first informant that, the Applicant was holding an axe and assaulted with it on the head of deceased is duly corroborated by the injuries mentioned in the post mortem report. The Medical officer has expressed his opinion as to the cause of death as “Head injury with fracture bilateral tibia and fibula”. Thus, it is apparent that the Applicant is the author of the said injury which turned out to be fatal to the deceased – Pirgonda Patil. There is sufficient material on record to show the complicity of the Applicant including recovery of axe at the instance of the Applicant.

5. After taking into consideration the gravity of offence and sufficient material on record showing clear complicity of the Applicant in the present crime, this Court is of the view that, this is not a fit case to release the Applicant on bail.

Application is accordingly rejected.

(A.S.GADKARI, J.)