

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION No. 2129 OF 2016

Sameer Ramkrishna Hengale

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr. A.P. Mundargi, Senior Advocate i/b. Mr. Deepak K. Girme, for the Applicant.

Mr. Y.M. Nakhwa, APP for Respondent – State.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 17th February, 2017.

P.C.:

This Application is moved for anticipatory bail under section 439 of Cr. P.C. The applicant-accused is facing prosecution under sections 302, 307, 143, 144, 146, 147, 148, 149 of the Indian Penal Code and Section 37(1) r/w. 135 of Maharashtra Police Act in C.R. No. 248 of 2014 registered with Vishrambaug Police Station, Pune. The offence is registered at the instance of Rohit Ramesh Jadhav on 29th September, 2014.

2. It is the case of the prosecution that a group of co-accused Harshal Belapure and deceased On Suresh Kadam had previous quarrel and therefore, they were on inimical terms. On 29th September, 2014 at around 8.30 p.m., when deceased was talking

with his friend Jaggu alias Chetan Bapu Thopte, the applicant/accused picked up quarrel with the deceased and thereafter Harshad Velapure and his associates, who are co-accused, assaulted Om Kadam with sickles. At that time, complainant Rohit Jadhav along with Sumit Sonawane arrived on the motorcycle and when they tried to intervene, at that time, they both were also assaulted. Om and Sumit were admitted in the hospital. Om Kadam succumbed to the injuries on the same day, hence the offence is registered against these accused persons. The applicant/accused was arrested on 30th September, 2014.

3. The learned senior counsel for the applicant/accused has submitted that the applicant/accused seeks parity, as co-accused Suraj Satish Pingale was released on bail by the Additional Sessions Judge, Pune on 4th April, 2015. The learned senior counsel submitted that as per the case of the prosecution, all the accused had assaulted the deceased. He submitted that the applicant/accused is innocent and he is to be granted bail, as he is in the prison since last 2½ years. He submitted that there are no criminal antecedents against the applicant/accused.

4. Learned APP opposed the Application. He relied on the statement of the complainant and other witnesses. Learned APP submitted that there are 5 to 6 eye-witnesses to the incident and the deceased died due to 43 incised wounds. A sickle is recovered from the applicant/accused. However, learned APP confirmed that there is no antecedents against the applicant/accused. He further submitted that role attributed to applicant/accused is more than that of Suraj Pingale.

5. Perused the FIR, statements of the witnesses especially statement of Jaggu alias Chetan Thopte. It shows that the applicant/accused had called deceased when he was talking with eye-witness Chetan Thopte. The applicant/accused was present with Harshad and other persons. The applicant/accused picked up quarrel with deceased and thereafter deceased returned to the complainant, at that time, the applicant/accused was on phone. Deceased and eye-witness stayed for nearly 20 to 30 minutes chatting and thereafter co-accused and associates of Harshad arrived there and they surrounded the deceased. Applicant/accused assaulted Om Kadam with sickle first and thereafter others started assaulting him with sickle. Considering the role attributed to the

applicant/accused and also considering the postmortem report, I am of the view that the case of the applicant is distinguishable from the case of Surj Pingale. Hence, Application for Bail is rejected.

(MRIDULA BHATKAR, J.)