

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

BAIL APPLICATION NO.2148 OF 2016

Shri Hari Ankush Patole & anr. ... Applicants

Vs.

The State of Maharashtra ... Respondent

Mr.Aniket Nikam i/b Aashish Satpute for the Applicant
Mr.Rajan Salvi, APP, for Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: FEBRUARY 27, 2017

P.C. :

1. This is an application for bail. The offence of murder was registered against the applicants/accused at C.R. No.325 of 2016 with Pandharpur Taluka Police Station, District Solapur for the offences punishable under section 302 r/w section 34 of the Indian Penal Code at the instance of one police constable Shri Shivaji Rudra Wankhede. It is the case of the prosecution that on 15.5.2011, the applicant/accused Hari Ankush Patole owed the deceased Pratap Salunkhe an amount of Rs.2,500/-. So, the deceased used to demand that money which the applicant/accused Hari Patole did not like and on 10.5.2016, both

the applicants/accused took him to the field and they all drank together. Thereafter, the applicants/accused started quarrelling with the deceased. They banged his head against a stone and killed him. Thereafter, they threw his body near one Sangola pipeline. Next day, the body was found and it was reported to Bhagwant Pratap Salunke, i.e., the son of the deceased. Both the applicants/accused were arrested on 15.5.2016. Hence, this Bail Application.

2. The learned Counsel for the applicants/accused has submitted that the incident of murder took place on 10.5.2016 and the body was found on 11.5.2016. Bhagwant Salunke has reported about the incident as an accidental death at No.41 of 2016 at Pandhapur Taluka Police Station. The learned Counsel submitted that in the statement of Bhagwant Salunke, he did not mention that he had seen the applicants/accused alongwith his father at around 10.30 pm in the field and they all were drinking and he told his father to come home. The learned Counsel submitted that similar is the case with the statements of Sitaram @ Pintu Arjun Bhosle, Shankar Manohar Pawar, who claimed to be eye witnesses for last seen together, which were recorded on

16.5.2016 and 17.5.2016 respectively. The learned Counsel has further submitted that there is recovery of motor cycle, however, besides that, there is no evidence against the applicants/accused.

3. Learned Prosecutor has opposed the application and relied on the statements of the witnesses, postmortem report and the complaint.

4. Perused the statements of the witnesses. There is no eye-witness. The case is based on circumstantial evidence. As per the case of prosecution, the incident has taken place on 10.5.2016 at around 10.30pm to 11pm in the field. It is the case of the prosecution that Bhagwant, son of the deceased, had seen the deceased and the applicants/accused in the field having liquor at around 10.30pm. However, he did not mention this fact when he reported to the police about the death of his father, which was recorded as due to accidental death. Similarly, Shankar Pawar whose statement was recorded on 17.5.2016 and who has stated that on 10.5.2016 at around 10pm, when he was returning on motor cycle near the field of Shrimant Shyamrao Bahire, he noticed applicant/accused No.2 Mahadev Tanaji Chavan, Hari Patole, pulling Pratap and when he questioned them as to why

they were dragging him, they told that Pratap was drunk and so they wanted to sprinkle water on his face. This statement was recorded on 17.5.2016. However, Shankar Pawar had earlier an occasion to be a part of the investigation of this murder, i.e., when he has acted as a panch for the spot panchanama on 11.5.2016. However, it appears that these witnesses did not disclose that they had seen the applicants/accused alongwith the deceased lastly at around 10 pm to 10.30 pm on that fateful night. Besides this, prima facie, there is no evidence against the applicants/accused and, therefore, considering the circumstances, I am inclined to grant bail to the applicants/accused on the following terms:

- a) The applicants-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty thousand only) each, with one or two solvent sureties in the like amount.
- b) The applicants-accused shall not tamper with the evidence or pressurise the complainant or the witnesses;
- c) The applicants-accused shall not indulge into any criminal activity and shall attend on all the Court dates;

d) The applicants-accused shall not abscond or leave India without prior permission of the Court and furnish their permanent address to the Investigating Officer alongwith documentary proof of his address.

e) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

5. Bail Application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)