

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2184 OF 2016**

Akash Ramesh Lashkare
Versus
The State of Maharashtra

...Applicant

...Respondent

Mr. Satyam H. Nimbalkar with Mr. Hrishi Ghorpade for the Applicant

Mr. Prashant Jadhav, A.P.P. for the Respondent-State

Mr. A. K. Bagwan, PI from Hadapsar Police Station is present

**CORAM:- REVATI MOHITE DERE, J.
(IN CHAMBERS)
DATED :- MARCH 2, 2017**

P.C.

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

2. This is the second bail application preferred by the applicant. The first bail application being Criminal Bail Application No. 2004 of 2015 was withdrawn after arguing for some time. The same is recorded in the order dated 21st April, 2016.

3. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 305 of 2014 registered with the Hadapsar Police Station, under Sections 302, 307, 143, 147, 148, 149, 120-B, 153-A of the Indian Penal Code.

4. The incident in question has taken place on 2nd June, 2014 at about 8:40 p.m. The complainant-Sheikh Mobeen Mohammed Sadik is the brother of the deceased-Sheikh Moseem. According to the complainant, when his brother Sheikh Moseem was returning home after Namaaz, 20 to 25 unknown persons came towards him. The said persons are alleged to have been armed with hockey sticks, bats, stumps and stones. All the said persons are alleged to have assaulted Sheikh Moseem with hockey sticks, bats, stumps and stones. Pursuant to the assault, Sheikh Moseem succumbed to the injuries. It is alleged that around the same time, two other persons also received injuries i.e. Amin Harun Shaikh and Ejaj Bagawan.

5. Learned Counsel for the applicant states that after the applicant's first application being Criminal Bail Application No. 2004 of

2015 was withdrawn on 21st April, 2016, other co-accused were enlarged on bail by this Court and by the Sessions Court. He submits that the material *qua* the applicant is similar to the co-accused, who have been enlarged on bail by this Court and the Sessions Court. Learned Counsel relied on the order passed by this Court in Criminal Bail Application No. 1013 of 2016 dated 16th June, 2016 as well as the order passed in Bail Application Nos. 2092, 2160 and 2368 of 2016 dated 12th January, 2017. He submits that out of 21 accused, 16 have been enlarged on bail. He submits that the co-accused, who have been enlarged on bail by this Court, have also been identified by witnesses in the identification parade and that there is recovery of weapons/clothes, at the instance of some of the co-accused. Learned Counsel for the applicant states that the applicant is a young boy aged 19 years and is a resident of Baramati and has no criminal antecedents.

6. Learned A.P.P does not dispute the fact that the role of the applicant is similar to that of co-accused Prasad Pansare, who has been enlarged on bail by this Court vide order dated 16th June, 2016 passed in Criminal Bail Application No. 1013 of 2016 and the order dated 12th

January, 2017 passed in order passed in Bail Application Nos. 2092, 2160 and 2368 of 2016, granting bail to other co-accused.

7. Perused the papers. It appears that there are no eye-witnesses to the actual assault on deceased-Sheikh Moseem and injured-Amin Harun Shaikh and Ejaj Bagawan. The two eye-witnesses to the alleged incident are pre-incident and post-incident. Although the applicant has been identified by three witnesses; Sheikh Mobeen Mohd. Sadik, Noor Ahmed Dalvai and Amin Harun Shaikh, no overt act has been ascribed by the said witnesses. It appears that Riyaz Ahmed Mubarak Shendure, also a witness, who was accompanying the deceased-Sheikh Moseem, has not identified the applicant. As far as recovery of wooden stick and clothes at the instance of the applicant are concerned, there are no blood stains on the said wooden stick and clothes. The material *qua* the applicant is similar to that of some of the co-accused, who have been enlarged on bail. Co-accused Prasad Pansare and Ranjit Yadav have been identified by one witness i.e. Sheikh Mobeen Mohd. Sadik. In addition, there is recovery of clothes at the instance of both the co-accused. The said co-accused Ranjit Yadav was also seen pre and post the incident and there are statements of

witnesses to that effect. Similarly, co-accused-Ajay Ladge has also been identified in the identification parade. There are four witnesses who have seen him pre and post incident and there is recovery of a wooden stick and clothes at his instance. Co-accused Vijay Gambhire (original accused No. 18) has also been identified in the identification parade by three witnesses. There is also recovery of clothes at his instance. He has also been seen by two witnesses pre and post incident.

8. Considering the aforesaid, the applicant is also entitled to be enlarged on bail on the ground of parity. Accordingly, the following order :

ORDER

- (i) The applicant is enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/-, with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month from 10:00 a.m. to 11:00 a.m till the conclusion of the trial;
- (iii) The applicant shall not tamper or attempt to influence or

contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number within two weeks of his release, 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 applicant to cooperate with the conduct of the trial;

(vi) The applicant shall not commit similar offence with which he is charged;

(vii) An undertaking to the aforesaid clauses (ii) to (vi) shall be filed by the applicant, in the trial Court, within two weeks after his release;

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

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

10. 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.

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

REVATI MOHITE DERE, J.