

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2339 OF 2016**

Shri Umesh alias Anna Gahininath Bansode ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Y.P. Narvankar for the Applicant

Mr.S.H. Yadav, APP, for Respondent – State

Mr.S.G. Patil, PSI, Sangavi Police Station, Pune city – present

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: FEBRUARY 24, 2017

P.C. :

1. The application is moved for bail as the applicant/accused is arrested in relation to C.R. No.190 of 2015 registered under sections 302, 143, 147, 148 and 149 of the Indian Penal Code with Sangavi Police Station, Pune City, at the instance of one Feroze Inayatullah Shaikh. The father of the complainant, namely, Inayatullah Shaikh was involved in the business of land dealings. On 26.6.2015, when the father of the complainant went to a Salon at around 10.30pm, suddenly 4 to 5 persons entered the salon. They lowered down the shutter of the salon and the co-accused Tausif Shaikh and Shoaib Shaikh alongwith other 3 persons, who were armed with sharp edged weapons, started assaulting

Inayatullah Shaikh and thereafter, they ran away. The incident was witnessed by Issac Amin Shaikh, the barber, who reported about this assault to Feroze Inayatullah Shaikh, the son of the deceased. Inayatullah succumbed to the injuries on the same day and so the offence was registered by the police against Tausif, Shoaib and others. The applicant/accused Umesh @ Anna Bansode was arrested on 30.3.2016 and hence, this Bail Application.

2. The learned Counsel for the applicant/accused has submitted that the applicant/accused is innocent. He was not present at the time of the incident. He is implicated in this offence on suspicion. He read over the statement of Issac and submitted that eye witness did not know the present applicant/accused but he has taken the name of the present accused as he was informed by the police. He further read over the statement of a blacksmith, namely, Dinkar Shankar Salunke, which was recorded on 2.4.2016 who has stated that 9 to 10 months prior to recording of his statement, the applicant/accused had visited his shop alongwith one person and he had placed order of 4 sickles and the witness had sold him 4 sickles for Rs.600/- for each sickle. He had collected those 4 sickles 4 to 5 days thereafter and again

thereafter, the applicant/accused has visited his place and had purchased the said sickles and had paid the remaining amount.

3. Learned Prosecutor while opposing this application has submitted that the applicant/accused has committed the offence of murder of Inayatulla alongwith the co-accused. He submitted that there is an eye witness to the incident and the applicant-accused was absconding for nearly one year after the incident. He relied on the statement of the blacksmith Dinkar Salunke. He submitted that the applicant/accused has taken active an part in the murder as he had placed an order of the sickles and had purchased the sickles from the blacksmith. The learned Counsel further submitted that the identification of the applicant/accused was not in issue so far as blacksmith Dinkar Salunke is concerned. He further submitted that the applicant/accused was known to the eye witness Issac Shaikh. The learned Prosecutor further submitted that the murder is brutal and 21 incise wounds are found on the body of the deceased.

4. Perused the FIR, the statement of eye witness Issac, the blacksmith Salunke and the other documents. The incident has taken place on 26.6.2015 in the Salon owned by Issac, who was

present at the time of the actual assault. However, the statement is recorded 4 days after the incident i.e., 1.7.2015. In his statement, he has specifically mentioned that 5 persons entered his Salon. They pulled the shutter of the salon down, pushed him inside it and he saw the actual assailants assaulting Inayatulla Shaikh. Out of the assailants, he has specifically mentioned two names i.e., Tausif and Shoaib Shaikh and he mentioned other three persons also assaulted Inayatullah. Thus, in his statement, he has not mentioned in his statement the name of the present applicant/accused. However, in the last paragraph, he has taken the name of the applicant/accused as an assailant alongwith Tausif, Shoaib and other two. However, *prima facie*, after going through the statement, it appears that the eye witness did not know Umesh Bansode by name on the date of the incident as he has not taken his name while describing the actual assault. The statement of the eye witness Issac *prima facie* appears true if the injuries as found and described in the postmortem report are considered. It shows that there are more than 1 or two persons in the assault of the deceased. The police did not conduct the Test Identification Parade. Insofar as the statement of the blacksmith Dinkar Salunke is concerned, it shows that the applicant/accused

had visited his shop thrice and therefore, the witness could identify the present applicant/accused. However, this may at the most show that the applicant/accused as having purchased 4 sickles from Dinkar Salunke.

5. Considering this prima facie evidence on record, I allow this application on the following terms:

- a) The applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty thousand only) with one or two solvent sureties in the like amount;
- b) The applicant-accused shall not tamper with the evidence or pressurise the complainant or the witnesses;
- c) The applicant-accused shall not indulge into any criminal activity and shall attend on all the Court dates;
- d) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his 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.

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

(MRIDULA BHATKAR, J.)