

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

BAIL APPLICATION NO. 2363 OF 2018

Amit @ Sonya Anandrao DeshmukhApplicant

V/s.

The State of MaharashtraRespondent

WITH

BAIL APPLICATION NO. 2364 OF 2018

Karan Shashikant BankarApplicant

V/s.

The State of MaharashtraRespondent

Mr. Ajay Dinode a/w. Mr. Mahesh Godse I/b. Mr. Kirankumar J.
Phakade for the applicant.

Mrs. J.S. Lohokare, APP for the State.

Mr. K.M. Farade, Police Constable, Koregaon Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 23rd OCTOBER, 2018.

P.C.:

. These are the applications under section 439 filed by the aforesaid applicants, who are facing trial in Sessions Case No.17 of 2018 on the file of learned Additional Sessions Judge, Satara for offences punishable under sections 109, 120B, 216, 302, 326 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Ajay Dinode, learned counsel for the applicants and Mrs. J.S. Lohokare, learned APP for the State. I have perused the

records and considered the submissions advanced by the learned counsels for the respective parties.

3. The said case arises from C.R.No.224 of 2017 registered at Koregaon Police Station, pursuant to the FIR dated 22/08/2017 lodged by Mandar Barge. A perusal of the FIR prima facie reveals that on 21/08/2017, Karan Bankar had abused and assaulted Shubham Barge. On the same day, the first informant and his friend Shambhu (deceased) and others questioned Karan Bankar about the incident. It is alleged that at that time Arjun Dere assaulted Akshay Barge on his right leg by an iron rod and that Karan Bankar tried to assault Shambhu Barge by a knife. Said Akshay had suffered a fracture and he was admitted in Dr. Patil Hospital, Koregaon.

4. On the same date, at about 9.30 p.m. Shambhu Barge visited Akshay in the hospital and enquired about his health and thereafter left the hospital. At about 10.27 p.m. Shambhu Barge called the first informant and told him that he had been assaulted and called him near Shivratri Hotel. The first informant and others went near Shivratri Hotel and found that said Shambhu had sustained a stab injury and was lying in a pool of blood. While they were shifting Shambhu to the

hospital, Shambhu informed them that he was assaulted at the instance of Jaywant Pawar. Said Shambhu expired at Sanjivani hospital on 22.08.2017 at about 04:15 a.m. Based on the said information, aforestated crime came to be registered against Jaywant Pawar and others.

5. The applicants herein were not involved in the actual incident or the incident that had preceeded the incident of assault. The names of these applicants are not reflected either in the first information report or in the statement of the first informant under section 161 of Criminal Procedure Code recorded on 25/08/2017. The statements of witnesses Amit Manoj Deshmukh and Akshay Barge recorded under section 164 of the Criminal Procedure Code on 22/08/2016 and 25/08/2016 do not prima facie indicate that these applicants were in any manner involved in the said incident of assault.

6. The names of these applicants were disclosed for the first time by the first informant and Akshay Barge in their supplementary statements dated 08/09/2017. These witnesses had stated that on 19/08/2017, the applicant and his associates had taken the co-accused to Vishalgarh, Kolhapur so that they could create terror and to ensure that no one

comes forward to lodge complaints against them. They had claimed that the applicant and his associates had planned to commit murder of Shambhu Barge. As stated earlier in the previous statements, the first informant as well as the witness Mandar Barge, Akshay Barge and Amit Manoj Deshmukh had not made any reference to the applicant. The material on record does not indicate that the statement made on 08/09/2017 was based on personal information of the first informant or the witnesses. Apart from the said belated statement, there is no other prima facie material on record to show the involvement of the applicants in the aforesaid crime.

6. The material on record does not prima facie indicate that the applicant was involved in committing the crime or that he had abetted commission of the said crime. Hence, the applicants cannot be declined bail solely on the ground of criminal antecedents.

7. It is pertinent to note that the investigation is concluded and charge sheet has been filed. The applicants are in custody for over a period of one year. Considering the nature of the allegations and all the above factors, in my considered view, the presence of the applicants is no longer required in custody. Hence, the Bail Application is allowed on following terms and conditions :-

(a) The applicants who are arrested in C.R.No.224 of 2017 registered at Koregaon Police Station are ordered to be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Fifty Thousand) each with one or two solvent sureties in the like amount.

(b) The applicants shall furnish their permanent address and temporary address, if any, and their contact details to the concerned Court as well as to the Investigation Officer.

(c) The applicants shall not change their residential address without prior intimation to the concerned Court and to the Investigation Officer.

(d) The applicants shall not interfere with the witnesses in any manner.

(SMT. ANUJA PRABHUDESSAI, J.)