

Sarnobat

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

CRIMINAL BAIL APPLICATION NO.638 OF 2018

Shantaram Dattatraya Bhosale	.. Applicant.
Vs.	
State of Maharashtra	.. Respondent.

Mr.Satyavrat Joshi for the Applicant.
Mr.Y.M.Nakhwa, APP for the Respondent.

CORAM : P. N. DESHMUKH, J.

DATE : 21ST MARCH, 2018.

P. C. :

1. One of the accused amongst four accused involved in this Crime No. 418/2016 registered with Jejuri Police Station, Pune Rural, District Pune initially for the offences punishable under Section 326 r.w. 34 of Indian Penal Code, wherein offence punishable under Section 302 of I.P.C. came to be subsequently added after the death of Tukaram Bhikoba Bhosale on 3rd January, 2017, had applied for bail.
2. Applicant is seeking bail on parity, contending that accused Dattatray Bhosale, Sharad Bhosale, Vaijanta wife of Dattatray Bhosale are already released on bail. Parity is mainly claimed contending that neither FIR nor statements of eye witnesses established any specific role of applicant, as according to the contents

of these documents, general statements are made of applicant along with co-accused committing assault on Tukaram Bhosale after quarrel and has therefore, contended that as according to P.M. report deceased has sustained only one injury on his head, which proved to be fatal, application as prayed to be allowed.

3. Learned APP opposed the application submitting that there is direct evidence against the applicant which is found corroborated with the medical evidence and even from the statement of witnesses, applicant's involvement is found as one of the assailants of deceased Tukaram Bhosale.

4. It appears to be the case of prosecution that on 22nd December, 2016 at 7.00 pm there was a quarrel between co-accused Dattatray Bhosale, Shantaram Bhosale, Vaijanta Bhosale and applicant on trifle issue of drawing water from well to irrigate the land. According to complainant Machindra Bhosale son of deceased, in this quarrel deceased was assaulted by sticks due to which sustained injuries. Admittedly, deceased had died on 3rd January, 2017 while under treatment and thereafter, offence punishable under Section 302 of IPC is added in this Crime, and it is also submitted that initially when the offence was registered under Section 326 of IPC, applicants were released on bail and on adding offence under Section 302 of IPC, their bail was cancelled and they are arrested. This Court while considering

co-accused entitled for bail had noted that deceased has sustained single injury on the parital region of scalp which proved to be fatal and there are other allegations against the applicants which do not corroborate with the medical evidence and had accordingly released co-accused Dattatray Bhosale and Sharad Bhosale, Vaijanta Bhosale on bail.

5. In that view of the matter, application is liable to be allowed on the ground of parity as well as on merit as, on trial there is possibility of applicant having found entitled for punishment of lesser offence than Section 302 of IPC. Hence, following order is passed;

ORDER

- (i) Applicant shall be released on bail, in Crime No. 418/2016 registered with Jejuri Police Station, Pune Rural, District Pune, he shall be released on bail on his executing P.R. Bond of Rs.50,000/- with one surety in the like amount.
- (ii) While on bail applicant shall not stay at Jejuri till the conclusion of Trial.
- (iii) Applicant shall mark his presence with the Shivaji Nagar Police Station, Pune on the first day of each month initially for the period of six months and thereafter quarterly on the first day of such month,

pending the trial.

- (iv) Learned Trial Court shall not be influenced with the observations of this Court and shall independently evaluate the evidence at the time of trial.

[P. N. DESHMUKH , J.]