

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO. 921 OF 2018**

Mahesh Dhanur Ubhale @ Bala

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. Amin Solkar, Advocate for the Applicant.

Mr. M.G. Patil, APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 27th JUNE, 2018.

P.C.:-

1) This is an Application under Section 439 of the Cr.P.C. for bail in CR No. 216 of 2016 dated 16th October, 2016 registered with Bhivandi Taluka Police Station under Sections 302, 307, 324, 338, 109, 504 of the Indian Penal Code, now culminated into Sessions Case No. 201 of 2017.

2) Heard the learned counsel for the applicant and the learned APP. Perused the charge-sheet.

3) The prosecution case in brief is that, the applicant and his family members were having earlier enmity with the family members of Kalpesh Pandit Shelar over the right of way to their residence for

the last three years. That on the date of incident, it is alleged that some altercations took place between the applicant and brother of the first informant Kalpesh Shelar over parking of two wheeler on the way. Due to the same, it is alleged that, the principal accused Ravi Ubale got enraged and on 15th October, 2016 at about 8:15 p.m., he initially assaulted Niranjana, friend of the first informant Kailash and thereafter to Kailash with a knife. The mother of the first informant tried to rescue the said fight, the principal accused Ravi assaulted her with a stone on her head. When the said fight was going on, it is alleged that the applicant came at the scene of offence and instigated the principal accused Ravi to kill all the concerned. At that time, Ravi Ubale assaulted Pandit Shelar who is the father of Kailash Shelar with the said knife on his chest and stomach and thereafter the applicant along with his brother Ravi Ubale fled away from the scene of offence.

During the course of investigation, the applicant came to be arrested on 17th October, 2016 and after completion of the investigation the police have submitted the charge-sheet.

4) After perusing the entire record, it is clear that the applicant came at the scene of offence in the midst of the said fight

when the principal accused Ravi Ubale had already assaulted Niranjan, Kalpesh and the mother of Kalpesh and thereafter, it is alleged that, the applicant instigated Ravi Ubale to kill all the concerned and as per the allegations said Ravi Ubale thereafter, assaulted Pandit Shelar with a knife.

Thus, it is clear that, it is the principal accused Ravi Ubale who is instrumental in causing injuries to the witnesses and for the death of Pandit Shelar. As noted earlier, the allegation as against the applicant is intervention in the said fight, in the midst of it, and instigated Ravi Ubale to kill all the concerned.

6) In view of the above, the applicant can be released on bail.

Hence, the following order.

- a) The Applicant be released on bail in CR No. 216 of 2016 dated 16th October, 2016 registered with Bhivandi Taluka Police Station, now culminated into Sessions Case No. 201 of 2017 pending on the file of Additional Sessions Judge-1, Thane on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount;

- b) After his release from jail, the applicant shall not enter in the jurisdiction of Bhivandi Taluka Police Station and shall keep himself away from the said jurisdiction of Bhivandi Taluka Police Station;
- c) Before his release from Jail, the Applicant shall submit documents of his prospective residence where he intends to reside after his release from jail to the Bhivandi Taluka Police Station and also to the Trial Court;
- d) After his release from Jail the applicant shall attend the concerned Police Station within whose jurisdiction he intends to reside on every alternate Monday for a period of one year and thereafter on every first Monday of the month between 11.00 a.m. to 1.00 p.m. till conclusion of the trial;
- e) The Applicant shall attend all the dates before the Trial Court unless precluded for medical reasons;
- f) Any two consecutive defaults in complying with the aforesaid conditions will attract the provisions of cancellation of bail.

- g) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.
- 7) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)