

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.961 OF 2018

Mangal Parshuram Barade, Age 60 years,
R/o.Village Tulshi, Tal.Bhiwandi,
Dist.Thane (Presently lodged at
Kalyan Central Prison)

Applicant

versus

The State of Maharashtra

Respondent

Mr.Amin Solkar for applicant.

Ms.A.A.Takalkar, APP, for State.

Mr.P.G.Chaudhari, PSI, Padgha Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 21st September 2018

PC :

1. This is an application for bail in CR No.I-90 of 2016 registered with Padgha Police Station for offences under Sections 302, 307, 324, 143, 147, 148, 149, 504 and 506 of Indian Penal Code. The applicant was arrested on 6th May 2016.

2. The prosecution in brief is that the complainant Vivek Vishnu Patil has alleged that his paternal uncle Namdeo Patil who was residing in the opposite house, was using the common village area for his personal use in dumping cow dung therein. It is alleged that about 7-8 days prior to the date of incident, at about 6 pm, the applicant and his son Bablu came at the village common plot and started demanding back the possession of the village common plot which was earlier with them due to which there ensued a quarrel

between them. The complainant allegedly intervened by saying that the issue of possession would be decided by village panchayat and accordingly the applicant and his son went away. On the next day the applicant came with a tractor and started digging out mud from the said plot on which he was made to understand that the village panchayat would decide the issue and thereafter he may start digging. The applicant agreed and left from the site. On 6th May 2016, at about 11 am, the applicant, his wife Manjula and son Rahul had quarrel over the said plot with complainant's mother Shubhangi and grandmother Anjanibai. The complainant again intervened and pacified them saying that the village panchayat will be deciding the issue on the same day and accordingly they left towards their house. At about 12 noon, Vitthal Barade (accused no.6) along with applicant arrived on a motor cycle at the house of Namdeo Patil and started abusing. The applicant and Vitthal Parade picked up two wooden sticks from nearby along with the others who too had wooden sticks as well as female family members came running towards the house of Namdeo Patil and both the families clashed with each other. Anjanibai along with other women came out of the house to save their family members, when Pandharinath (accused no.2) and Rahul (accused no.4) hit the Anjanibai on her head with a wooden log due to which she fell on the ground. The applicant gave blow of wooden stick on the hand of Anjanibai. It is further alleged that when the complainant went to lift Anjanibai, he was assaulted by Manjula Barade (accused no.5) and at that time Ravindra and Keval lifted Anjanibai and took her to Padgha Hospital from where she was taken to Indira Gandhi Hospital, Bhiwandi, where she expired at about 2 p.m. Thereafter FIR was registered on the same day.

3. During the course of investigation the applicant and other accused were arrested. On completing the investigation charge sheet has been filed.

4. Learned advocate for applicant submitted that Manjula i.e. wife of the applicant had preferred application for bail which was allowed by this Court on 6th February 2017. The other accused Surekha Barade (accused no.7) and Indu (accused no.8) had also preferred application for bail before this Court, which were allowed vide order dated 8th November 2017. The accused Rajendra and Vitthal moved application for bail before this Court, which is also granted vide order dated 22nd March 2018. The application preferred by the applicant was rejected by the Sessions Court on 21st December 2017. It is submitted that other accused who were similarly placed were granted bail by this Court. The role attributed to the applicant is assaulting Anjanibai on her hand after she fell down after the incident. The role of assaulting the deceased on the vital part of her body is attributed to other accused who is still in custody.

5. Learned APP submitted that the applicant had assaulted another injured Ravindra who had suffered fracture.

6. I have considered the submissions advanced by both sides. Admittedly the role attributed to the applicant is that he assaulted on the hand of deceased by wooden stick. The other persons who had similar role had been granted bail by this Court. As far as allegation of assault on Ravindra on his head by the applicant is concerned, it is

pertinent to note that the applicant is in custody for a period of about 30 months. There are no reported criminal antecedents against applicant. Considering the aforesaid circumstances, case for grant of bail is made out.

7. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.961 of 2018 is allowed;
- (ii) The applicant is directed to be released on bail in connection with CR No.I-90 of 2016 registered with Padgha Police Station, which is subject matter of Sessions Case No.54 of 2017 pending before the Court of Sessions, at Thane, on furnishing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report Padgha Police Station once in a month on every first Monday between 10 am and 12 noon till further orders;
- (iv) The applicant shall not tamper with evidence;
- (v) The applicant shall attend the Trial Court regularly on the dates of hearing, unless exempted by the Trial Court for some reason

(PRAKASH D. NAIK, J.)

MST