

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

BAIL APPLICATION NO. 1211 OF 2018

Sagar Balaso ChouguleApplicant

V/s.

The State of MaharashtraRespondent

WITH

BAIL APPLICATION NO. 1217 OF 2018

Vijay Appaso ChouguleApplicant

V/s.

The State of MaharashtraRespondent

Mr. Kuldeep S. Patil for the applicant in BA 1217/2018.

Mr. Kuldeep S. Patil i/b. Ranjeet H. Patil for the
applicant in BA 1211/18.

Mr. S.H. Yadav, APP for the State.

Mr M.T. Dhumal, Police Naik, Sangli Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 31th AUGUST, 2018.

P.C.:

. This is an application for bail under Section 439 of Criminal Procedure Code filed by the aforesaid applicants, who are facing trial in Sessions Case No.44/2018 pending before Sessions Judge, Sangli arising from C.R.No.I-287/2017 registered at Kavathe-Mahankal Police Station, District Sangli for offences punishable under sections 143, 147, 148, 149, 302, 307 of the Indian Penal Code and sections 4 and 25 of

Arms Act.

2. Heard Mr. Kuldeep Patil, learned counsel for the applicants and Mr. S.H. Yadav, 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 aforesaid crime was registered pursuant to the first information report lodged by Tanaji Bhosle, the father of the deceased Ashok. The first information report *prima facie* reveals that on 01/12/2017, the deceased and his family members had gone to attend a fare near Alama Temple. Some of the boys had started creating disturbance in the program. The deceased and others had complained about the said disturbance to the police and panch committee of the Village. At about 01:00 a.m., during the intervening night, irked by the said complaint, the applicants and the other co-accused came armed with weapons such as sword and sticks and inflicted injury on Ashok and others. Said Ashok expired as a result of the injuries inflicted by the accused. Hence, Tanaji Bhosle, the father of the deceased lodged the complaint against the applicant and others for forming an unlawful assembly, armed with deadly weapons and

causing death of his son Ashok and injuries to the other members.

4. The post mortem report indicates that Ashok had sustained i) *incised wound over right gluteal region 6 cm x 2.5 cm x 9 cm* ii) *Thorough and through penetrating injury over post aspect of right thigh. Entry wound over post aspect 6 cm x 4 cm, exit wound 3 cm x 2 cm* iii) *Through and through penetrating injury over post aspect of right thigh. Entry wound 5 cm x 2 cm. Exit wound 4 cm x 2.5 cm. Contusion over right shoulder 5 in number 7 to 9 cm x 2 cm.* He expired due to hemorrhagic shock due to said multiple injuries. The medical certificate at page 78 also *prima facie* indicates that the other injured persons had sustained injuries which are stated to be simple in nature. The first information report as well as the statement of the eye witnesses *prima facie* indicates that these applicants were not involved in inflicting fatal blows on the deceased Ashok.

5. Thus the material on record *prima facie* indicates that the applicants were not armed with deadly weapons and were not involved in causing injuries which proved to be fatal. It is true that in view of the provisions of Section 149 of Indian Penal Code, it is not necessary to prove individual act of each accused/applicant. Nevertheless, the

question whether the applicants were the members of an unlawful assembly and whether they shared a common object is a matter to be considered on merits. Furthermore, Mr. Kuldeep Patil, the learned counsel for the applicants, under instructions, states that the applicants shall not visit village Agrandulgaon for a period of one year. Statement is accepted.

6. Considering the above facts and the fact that the investigation is complete and charge sheet has already been filed, in my considered view, the presence of applicants is not required in custody for the purpose of investigation. Hence, I pass the following order :-

(a) Bail Applications are allowed.

(b) The applicants who are facing trial in Sessions Case No.44/2018 pending before Sessions Judge, Sangli (arising from C.R.No.I-287/2017), are ordered to be released on bail on furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand only) each with one or two solvent sureties in the like amount, to the satisfaction of Sessions Judge, Sangli.

(c) The applicants shall not visit village Agrandulgaon for a period of one year.

(d) The applicants shall furnish their permanent address and temporary address, if any, and their contact details to the concerned Court.

(e) The applicants shall not change their residential address without prior intimation to the concerned Court.

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

(SMT. ANUJA PRABHUDESSAI, J.)