

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

CRIMINAL BAIL APPLICATION NO.2684 OF 2018

1) Prashant Dilip Pawar; and
2) Shashikant @ Sashi Shantaram Kulye .. Applicants

Vs.

State of Maharashtra .. Respondent

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Mr.Niranjan S. Mundargi a/w. Mr.Saurabh Butala i/b. Sonam Singh, Advocate for the Applicants.

Mr.R.M. Pethe, APP for the Respondent – State.

Mr.Laxman Chavan, API, Dombivali Police Station, District-Thane, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : NOVEMBER 30, 2018.

P.C. :

Applicants are seeking bail in connection with C.R.No. I – 138 of 2017, registered with Dombivali Police Station, District – Thane, on 30th May, 2017, for the offences punishable under Sections 302, 143, 147, 148, 149, 342, 323, 504 and 506, read with section 34 of Indian Penal Code (“IPC”, for short) and Sections 3, 25, 27 and 30 of Indian Arms Act.

2 Applicants were arrested on 2nd June, 2017. The investigation is completed and charge - sheet is filed. The prosecution case is that the informant used to carry out construction work with the help of his brother. He owns a chawl and receives rent from the same. There is an old dilapidated house of co-accused Shriram Bhagat in front of the house of informant. On 28th December, 2017, Shriram Bhagat cut down two trees and wood thereof was thrown in front of the house of informant, which created hurdle for him and his family members. The younger brother of the informant Vikrant questioned about the same. He was abused and threatened by accused Shriram Bhagat, Mangesh Bhagat, Omkar Bhagat, Punkaj Mhatre and Pradip Naidu. It is further alleged that on 30th May, 2017, the younger brother of informant Vikrant and his friends had taken his mother to hospital since she was not keeping well. They returned at about 12:30 p.m. It was noticed that the accused Shriram Bhagat had parked JCB machine in front of house of informant on road, which created hurdle in their way. As such, the brother of informant asked the accused to remove the JCB machine. However, he was threatened by accused. At about 2:00 p.m., on the same day, while complainant was having his lunch at

his home with family members and friends, the accused Shriram Bhagat gave alarm to Vikrant. As such, the informant and others came down, wherein other accused had gathered. The accused Pankaj Mhatre was found armed with single barrel gun. The informant and Vikrant asked the accused Shriram Bhagat to take aside the JCB, which he refused to do so. Thereafter, the accused persons encircled the complainant and his associates and gave alarm to kill. Accordingly, Shriram Bhagat took out revolver from his waist and gave it to Mangesh and asked him to kill Vikrant. While complainant and his family members were attempting to save deceased. Co-accused, Mangesh fired by revolver at Vikrant, who suffered bleeding from abdomen and fell down. Thereafter, the accused persons fled away in the four vehicles parked in front of the house of the complainant. The injured was admitted in hospital, who latter on succumbed to death. On the basis of these allegations, FIR was registered for the aforesaid offences. The applicants were arrested. Other accused were also arrested.

3 It is submitted by learned advocate for the applicant that the co-accused Sumeet Kashinath Choudhari and Swapnil Kashinath Choudhari were granted bail by this Court vide Bail Application No.1524 of 2018, by order dated 17th September,

2018. The case of the applicant and the said co-accused, who were granted bail is identical. Learned APP submitted that applicants were present at place of incident. They accosted the victim and did not allow him to move. On the same day, another FIR was registered vide C.R.No.172 of 2018, under Section 395 and 363 of IPC, regarding removal of JCB Machine. Co-accused who are similarly placed are granted bail. The applicant did not assault the victim.

9 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.2684 of 2018, is allowed;
- (ii) The applicants in connection with C.R.No.I-138 of 2017, registered with Dombivali Police Station, District-Thane, they be released on bail on their furnishing P.R. Bond in the sum of Rs.25,000/-, each with one or more sureties in the like amount;

- (iii) The applicants shall not tamper with evidence;
- (iv) The applicants shall report Dombivali Police Station, District - Thane, once in a month on every Friday between 10:00 a.m. to 12:00 noon, till further orders;
- (v) Applicants shall attend every date of hearing regularly before the trial Court, unless exempted by the trial Court;
- (vi) Trial Court shall not be influenced by the observations in this order during the trial;
- (vii) Bail Application No.2684 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)