

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2834 OF 2018

Saklen Asgar Dhanse & Anr.Applicants.

Vs.

The State of MaharashtraRespondent.

WITH

BAIL APPLICATION NO. 2835 OF 2018

Zulfikar Fakruddin AntuleApplicant.

Vs.

The State of MaharashtraRespondent.

Mr. Rajendra Sorankar for the Applicants.

Ms. Rutuja Ambekarr APP, for the Respondent-State.

Mr. Amin Solkar for the Intervenor.

CORAM : A. S. GADKARI, J.

DATE :24th NOVEMBER, 2018.

P.C.:-

These are Applications under under Section 439 of the Code of Criminal Procedure for bail in CR No. 29 of 2018 dated 1st May, 2018 registered with M.I.D.C. Police Station, District Raigad under Sections 143, 147, 148, 302, 323, 504 read with Section 149 of

the Indian Penal Code and other provisions of Bombay Police Act, 1951, now culminated into Sessions Case No. 27 of 2018.

2 Heard Shri. Sorankar, the learned counsel for the Applicants, Shri. Solkar, the larned counsel for the first informant and the learned APP. Perused the charge-sheet.

3 The Applicants in BA No. 2384 of 2018 are accused numbers 10 and 5 respectively and the Applicant in BA No. 2385 of 2018 is accused No. 12, as per the charge-sheet.

4 The present crime is registered by the first informant Shri Samir Mohiddin Hurzuq on 2nd May, 2018.

The prosecution case in brief is that, due to the dispute over the landed property, there was enmity between the deceased Mohiddin Hurzuq and his family members on one side and the Applicants and their family members on the other side. That, on 1st May, 2018 at about 10.00 p.m. the Applicants along with other 10 accused persons, assaulted Mohiddin Hurzuq (deceased) and the first informant with stone, stick, fist and kick blows. In the said assault Mohiddin Hurzuq got unconscious. He was taken to the M.M.A. Hospital, MIDC, Mahad where he was declared brought dead.

During the course of investigation, the Applicants are arrested on 3rd May, 2018 and after completion of investigation the police have submitted charge-sheet.

5 As per the record, the postmortem report notes of Mohiddin Hurzuq indicates that, he suffered following three injuries-

a) Left side of left eye near eyebrow

Injury lateral 2x1 cm.

b) Right knee lateral, punctured wound seen.

c) Left knee abrasion.

The Medical Officer has opined as to the probable cause of death is due to '*intra cranial bleeding, secondary is cardiopulmonary, arrest secondary to assault*'.

6 As per the record, accused Kamal Dhanse and Taufiq Dhanse are instrumental in causing the injuries mentioned in the postmortem notes. It is the injury No.1, which appeared to have been turned fatal thereby causing intra cranial bleeding to Mohiddin Hurzuq. The said injuries are caused by Kamal Dhanse. As far as the Applicants are concerned, they have been attributed with a role of assaulting the first informant and his father with fist and kick blows.

The other accused persons namely Smt. Mubarak Dhanse and Smt. Fatima Antule, Muajjam Dhanse, Shoab Dhanse and Parvez Dhanse, and Mubin Kamal Dhanse, who have been attributed with the same and/or similar role, have been granted bail by this Court. The record further indicates that, the Applicants have been attributed with same and/or similar role as has been attributed to the said accused persons.

7 After taking into consideration the aforestated facts, this Court is of the view that the Applicants are entitled to be released on bail on the ground of parity.

Hence the following order-

- a) The Applicants be released on bail in Crime No. 29 of 2018 registered with MIDC, Mahad Police Station, on their furnishing PR bond of Rs.25,000/- each with one or two solvent local sureties in the like amount.
- b) The Applicants shall provide their permanent as well as temporary address, if any, and their contact details to the Investigating Officer and in the bail bond.
- c) The Applicants shall not change their residential address without prior intimation to the Investigating Officer.

- d) The Applicants shall not interfere with the witnesses or tamper with the evidence in any manner.

8 Applications are allowed, in the aforesaid terms.

(A.S. GADKARI, J.)