

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

BAIL APPLICATION NO. 2703 OF 2017

1 Shantaram Dattatray Bhosale.
2 Sharad Trimbak Bhosale. ... Applicants.

Versus

The State of Maharashtra. ... Respondent.

Mr. Satyavrat Joshi, advocate for Applicants.

Mrs. P.P. Shinde, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 6, 2018**

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for State.

2 This is an application under section 439 of the Code of Criminal
Procedure, 1973. At the outset the learned Counsel for the applicants
submits that he would not press the application as far as applicant No.
1 is concerned.

3 As far as applicant No. 2 is concerned, the applicant No. 2 was initially arrested on 23/12/2016 since the offence was registered under section 326 of the Indian Penal Code. Deceased Tukaram Bhosale succumbed to the injury on 3/1/2017 and thereafter section 302 of the Indian Penal Code was added and applicant has been taken into custody. The investigation is completed and charge-sheet is filed

4 It is the case of the prosecution that on 22/12/2016 Machchindra Tukaram Bhosale in the evening at about 7 p.m. there was quarrel between his uncle Dattatray Bhosale and Tukaram Bhosale. The issue was trifling. It was the case of the complainant that dates for drawing water from well was assigned to the complainant. However, the present applicant and the others were drawing water on that day. Hence, there was an altercation. In the said altercation, Dattatray Bhosale, Shantaram Bhosale, Sharad Bhosale and others had assaulted Tukaram with stick.

5 It is alleged that all the accused were armed with stick. Tukaram had sustained injury. He was admitted in Anandi Lifeline Multi-Speciality Hospital at Jejuri with history of head injury. Tukaram was almost 85 years old at the time of the incident. On 3/1/2017 he died due to cardiac arrest. Hence, section 302 of the Indian Penal Code was added.

6 Upon perusal of the post mortem notes, more particularly, column 17, it appears that the deceased had sustained only one contusion about 4 x 3 cm. at left frontal parietal region of scalp. It was a fatal injury. There is corresponding internal injuries which is fracture at left parietal scalp. It appears that there was internal bleeding.

7 Co-accused Dattatraya Bhosale, who is the uncle of the present applicant has been enlarged on bail by this Court vide order dated 29/8/2017.

8 There are omnibus allegations against all the accused which are not corroborated by the medical evidence, as there is single blow on the head. Moreover, the deceased was 85 years old. Hence, this Court is of the opinion that the applicant deserves to be enlarged on bail.

9 However, the observations made hereinabove are restricted to the application under section 439 of the Code of Criminal Procedure, 1973 and the trial court shall not be influenced by the same while deciding application for quashing of FIR, discharge application or at the time of trial.

10 Hence, the following order is passed :

ORDER

- (i) The application of Applicant No. 2 is allowed.
- (ii) The applicant No. 2 be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or more solvent sureties in the like amount.

- (iii) The applicant No. 2 shall not reside at Jejuri till conclusion of trial.
- (iv) The applicant No. 2 shall not tamper with the evidence.
- (v) The application of applicant No. 1 is disposed of as not pressed.

11 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)