

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.281 OF 2019

Rohit Machindranath Hingmire & Ors.] ... Applicants

Versus

The State of Maharashtra] ... Respondent

Mr. Nagesh Chavan, Advocate for the Applicants.
Smt. A.A. Takalkar, APP for the State/Respondent.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 19 JUNE, 2019.

P. C. :-

1. The applicants are seeking bail in connection with C.R.No.231/2016 registered with Sangli City Police Station u/sec.302, 307, 323, 143, 147, 148, 149 r/w 34 of I.P.C. and under Section 135 of the Maharashtra Police Act.

2. The investigation is over and charge-sheet is already filed resulting in Sessions Case No.51/2017 before the Additional Sessions Judge, Sangli.

3. The FIR in this case is lodged on 02/12/2016 by Harish Shinde. He himself is injured in this incident. On 02/12/2016 at around 7.00

p.m., the informant was present with one Balu at Ram Nagar. At that time his friends Rahul Bandyagol, Vicky @ Dhanwan Tingre along with others came from near by lane. At that time, one Ali Mokashi also came there on his motorcycle, along with him there were four unknown persons and other accused namely Samir, Rohit Hingmire (Applicant No.1). The informant saw that Rahul, Vicky and his friends on one hand and Ali and his friends on the other started fighting with each other. The informant saw that Ali assaulted Vicky @ Dhanwan Tingre with the knife. When Rahul Bandyagol came forward the Applicant No.1 – Rahul held him and accused Ali assaulted him with knife. When the informant tried to intervene, the accused Ali gave a blow with his knife on the informant's chest.

4. The statements of the other two witnesses namely Uday Satyal and Shivraj Satyal described the said incident as they were also present when the incident took place. Their statements are also similar. They have stated that the accused Ali Mokashi was going on his motorcycle towards Kolhapur S.T. Stand, at that time Uday and Vicky called him. Rahul, Uday and Vicky questioned him about the some previous dispute. At that time there was scuffle between the

group of Ali and group of Rahul Bandyagol. At that time, Ali went towards his motorcycle, brought weapon like knife and assaulted Vicky @ Dhanwan Tingre on his back. Rahul was held by Applicant No.2 and co-accused Samir. Ali assaulted Rahul on chest and stomach. Applicant No.1 had held the Vicky and Ali assaulted Vicky with his knife. When the first informant Harish tried to intervene, he was assaulted by Ali with the knife. Both Vicky and Rahul were grievously injured and they succumbed to their injuries. Therefore, the offence was registered.

5. Heard Mr. Nagesh Chavan, Ld. Counsel for the Applicants and Smt. A.A. Takalkar, APP for the State/Respondent.

6. It can be seen that the incident had occurred suddenly without any premeditation. The statements of the eye witnesses Uday Satyal and Shivraj Satyal show that the deceased themselves had called the main accused Ali and the quarrel started. Thereafter, Ali had gone to his motorcycle and had brought knife. Therefore, at this stage it is difficult to hold that the present applicant were aware of the intention of Ali.

7. It is also important to note that the main role of assault is attributed to Ali and applicants are alleged to have held the deceased facilitating the main assault.

8. In this connection, the Ld. Counsel for the applicants relied on the order passed by this court (Coram : Nitin W. Sambre J.) on 01/02/2019 in Criminal Bail Application No.3195/2018 wherein the accused Samir Sanadi was granted bail. It was observed in that order that main assault was committed by Ali and the said applicant Samir was attributed the role of catching hold of Rahul.

9. The role attributed to Applicant No.3 by the eye witnesses Uday Satyal and Shivraj Satyal is exactly the same as that of Samir. Even Applicant No.1 Rohit's role is similar that he had held one of the deceased and the main accused assaulted him with knife. Thus, there is no difference between the roles of the accused Samir and the present applicants. Since Samir is already granted bail by the order dated 01/02/2019 in Criminal Bail Application No.3195/2018 on the ground of parity both the Applicant Nos.1 and 3 also deserves to be granted same relief. It has to be noted that by the previous order, the

application of Applicant No.2 in this matter was not pressed because he was the same person who was granted bail by the order dated 01/02/2019. In this view of the matter, following order is passed.

ORDER

1. The Applicant No.1 – Rohit Machindranath Hingmire and Applicant No.3 – Mehboob Hajisab Mulla are directed to be released on bail in connection with C.R.No.231/2016 registered with Sangli City Police Station on their executing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties each in the like amount.
2. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)