

Dusane

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

CRIMINAL BAIL APPLICATION NO.1466 OF 2019

Suresh Savlaram Mhatre Applicant

Versus

The State of Maharashtra & Anr. Respondents

Mr. K.S. Labana, for the Applicant.

Ms. P.P. Shinde, APP for the State

Ms. Sangeeta Eknath Phad for Respondent no.2.

API, Mr. Vinod Patil, Hill Line Police Station, Ulhasnagar-5,

Thane City present.

CORAM : REVATI MOHITE DERE, J.

DATE : 25th SEPTEMBER, 2019

P.C. :

1. Heard learned counsel for the parties.

2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No. 55 of 2018, registered with Hill Line Police Station, Ulhasnagar, for the alleged offences punishable under Sections 302, 326, 324, 143, 147 and 149 of the Indian Penal Code.

3. Learned counsel for the applicant seeks bail on the ground of parity. He submits that identically placed co-accused Jitin Suresh Mhatre has been enlarged on bail by this Court (Coram : Prakash D. Naik, J.) vide order dated 25th February, 2019 passed in Criminal Bail Application No. 2797 of 2018. He submits that the applicant and Jitin are alleged to have assaulted Gurunath with wooden logs. He submits that the applicant has no antecedents.

4. Learned APP opposed the application. She submits that there is recovery of a wooden log at the instance of the applicant under Section 27 of the Indian Evidence Act. She however, does not dispute the fact, that the applicant has no antecedents

5. Perused the papers. According to the prosecution, the incident took place on 3rd March, 2018 at about 10.30 am. According to the complainant- Datta Rane, his uncle informed him that Pramod Mhatre, Darshan Mhatre and Ramesh Mhatre

were quarreling with his aunts. It is alleged that the applicant and two others came there armed with wooden log/stick. It is alleged that when the complainant went to the spot, the accused assaulted him and others including deceased-Dnyandev. It is further stated that Pramod Mhatre, Darshan Mhatre and Ramesh Mhatre went to their houses and returned with weapons like axe, wooden logs etc. Pramod is alleged to have assaulted Dnyandev (deceased) with an axe and Darshan is alleged to have assaulted Ananta Rane by spade. Dnyandev succumbed to his injuries and died on 6th March, 2019. It is alleged by the complainant that when he tried to intervene co-accused, Shatrughan assaulted him on his head. The applicant and Jitin are alleged to have assaulted Gurunath by stick/wooden log on his hand, head and back.

6. As far as parity is concerned, it appears that role of the applicant is similar to that of co-accused Jitin, who has been enlarged on bail. Jitin is also alleged to have assaulted Gurunath with the stick/log alongwith the applicant.

7. A perusal of the injury certificate of Gurunath shows that he has sustained hematoma on temporal region, which is stated to be a simple injury. A perusal of the injury certificate of Gurunath shows that he had given history of assault by a rod and not by a stick or log, as alleged by the prosecution. It appears that the incident which took place on 3rd March, 2019, was on account of a quarrel between two families. The applicant has no antecedents. The applicant is in custody since March 2018. Investigation is completed and charge-sheet is filed.

8. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount;
- ii) The Applicant shall not enter the jurisdiction of Hill Line Police Station till the conclusion of the trial.

iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

iv) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

v) The Applicants shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the trial Court;

vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the Registry of the trial Court, within two weeks of his release;

vii) If there are two consecutive defaults either in attending

the Police Station or in appearing before the trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

(viii) The applicant is at liberty to apply for modification / relaxation of clause (ii) stated hereinabove, after passage of reasonable time.

8. The Application is allowed and disposed of in above terms.

9. It is made clear, that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.