

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

BAIL APPLICATION NO.743 OF 2019

1. Shrihari Pandhari Satpute

2. Laxman Gokul Satpute

...Applicants

Versus

The State of Maharashtra

...Respondent

...

Mr. Sanjeev Kadam with Mr. Prashant Raul i/b. Ms Vilasini Balsubramaniam for the Applicants.

Mr. N.B. Patil, APP for the Respondent -State.

Mr. Bhagyashil Mangle for the Respondent No.2.

Mr. N.B. Patil, APP for the Respondent-State.

Mr. T.H. Dake, PN/1669, Pangri Police station, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 3rd MARCH, 2020.

(IN CHAMBER)

P.C.:-

1. This is the second bail application filed by the aforesaid Applicants, who are facing trial in Sessions Case No.19 of 2018 on the file of the learned Sessions Judge, Barshi for offences punishable under Sections 120 B, 147, 148, 302, 307 and 323 r/w 149 of the IPC and Sections 4 and 25 of the Arms Act.

2. The previous bail application, (Bail Application No.1837 of 2018) was withdrawn by the Applicants when the Court was not inclined to grant bail after hearing the respective parties. The learned

counsel for the Applicants states that almost two years have lapsed from the date of arrest of the Applicants and there is no much progress in the case since the date of withdrawal of the previous bail application. He submits that the Applicants were not armed with deadly weapons. They have allegedly assaulted Krushna Patil, Manik Satpute and Sudam Chavan only by kicks and blows and were thus not involved in inflicting fatal injuries. Considering the above facts, he seeks release of the Applicants on bail.

3. Learned APP for the Respondent -State and the learned counsel for the Intervenor submitted that the Applicants were the members of unlawful assembly formed with primary object of causing death of Krushna Patil, Manik Satpute and Sudam Chavan. They have submitted that the FIR as well as the statements of the injured and independent eye witness prima facie prove involvement of the Applicants in commission of the said crime. It is submitted that the charge has already been framed and there are reasonable grounds for believing that the Applicants are guilty of serious offence of double murder. It is submitted that the trial has not yet commenced and that there is every possibility of the Applicants misusing the liberty.

4. Perused the records and considered the submissions advanced by the learned counsel for the respective parties. One of the main consideration in the grant of bail in non bailable offences is the gravity of the offence. Hence, the question for consideration is whether there are prima facie or reasonable grounds to believe that the Applicants are involved in committing an offence, which is of serious and grave nature.

5. The prosecution version, as narrated in the FIR lodged by Rahul Patil is that on 24/11/2017 while Krushna Patil was proceeding towards village- Tadsaundane, Barshi on his motorcycle with Manik Satpute and Sudam Chavan as pillion riders, a pickup came at a fast speed and dashed against his motorcycle. As soon as Krushna Patil and the pillion riders fell on the road, the Applicants and other co-accused got down from the pickup. They were armed with deadly weapons like iron rods, swords, iron pipes, wooden sticks, etc. and were shouting that these persons should not be kept alive (i.e. Krushna Patil, Manik Satpute and Sudam Chavan) and that they should be killed. One of the co-accused put chili powder in the eyes of Krushna Patil, Manik Satpute and Sudam Chavan and others assaulted them with Koyta, sickle, iron pipe, wooden stick, etc. It is alleged that the Applicants

herein were also involved in assaulting said Krushna Patil, Manik Satpute and Sudam Chavan with kicks and blows. Sudam Chavan sustained grievous injuries, whereas Krushna Patil and Manik Satpute expired as a result of the injuries sustained.

6. The post mortem report reveals that Krushna Patil had sustained several injures including stab injuries and the cause of death is stated to be due to shock as a result of the injuries to vital organs, brain and right kidney associated with other injuries. The post mortem report also indicates that Manik Satpute had also sustained multiple injures and the cause of death is stated to be due to cardio respiratory failure due to injuries to vital organs, brain and multiple fractures.

7. The material on record prima facie indicates that death of Krushna Patil and Manik Satpute was homicidal. The FIR as well as the statement of the injured -Sudam Chavan and another witness-Rekha Satpute prima faice indicates that the Applicants were the members of the unlawful assembly, which had assembled with a common object of causing death of Krushna Patil and Manik Satpute. In prosecution of the common object the co-accused assaulted them with deadly weapons while the Applicants inflicted kicks and blows.

The nature of weapons, the words uttered and the manner in which the entire incident occurred and the nature of injuries inflicted on Krushna Patil, Manik Satpute and Sudam Chavan prima facie suggests that the Applicants had positive knowledge that the Krushna, Sudam and Manik were likely to be murdered. The offence of double murder having been committed, the Applicants being the members of the unlawful assembly are prima facie vicariously liable for the offence committed by the other members of the unlawful assembly. The offence is of serious and grave nature. Trial has not yet commenced. Under such circumstances, releasing the Applicants on bail will be detrimental to fair trial.

8. Under the circumstances and in view of discussion supra, the application is rejected.

(SMT. ANUJA PRABHUDESSAI, J.)