

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

CRIMINAL BAIL APPLICATION NO. 3336 OF 2019

Ajinath Dnyandeo Hande	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
INTERVENTION APPLICATION NO. 01 OF 2020
IN
CRIMINAL BAIL APPLICATION NO. 3336 OF 2019**

Suryakant Chandrakant Hande	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 3356 OF 2019**

Dattatraya Krushna Hande	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
INTERVENTION APPLICATION NO. 01 OF 2020
IN
CRIMINAL BAIL APPLICATION NO. 3356 OF 2019**

Suryakant Chandrakant Hande	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Ujwal R. Agandsurve, Advocate for the Applicant in Bail Application No. 3336 of 2019.

Mr. Sagar Tambe i/b Mr. Ritesh M. Thobade, for applicant in Bail Application No. 3356 of 2019.

Mr. Jaydeep Mane, Advocate for intervenor in both Bail Applications.

Mr. S. H. Yadav, APP for the state-respondent in both Bail Applications.

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CORAM : PRAKASH D. NAIK, J.

DATE : 14th January, 2020

PC :

1. The applicants in both these applications are seeking bail under Section 439 of Cr.PC in C.R. No. 557 of 2019 registered with Tembhurni Police Station, Dist. Solapur Rural for offences punishable under Sections 302, 307, 114, 143,147, 148, 149, 504 & 506 of Indian Penal Code.

2. The FIR was lodged by Suryakant Chandrakant Hande who is the son of the deceased. The applicant Ajinath Dnyandeo Hande was arrested on 5th October, 2019 and Dattatraya Krushna Hande was arrested on 29th October, 2019. The prosecution case is that on 5th October, 2019, the accused No.1-Hanmant, accused No. 2-Bayadabai, accused No.3- Dattatraya Krushna Hande (applicant), accused No.4 - Ajinath Dnyandeo Hande (applicant) and accused No.5 – Haridas had participated in the assault. It is alleged that the accused Dattatray Hande, Ajinath Hande and Haridas were present at the scene of offence. They instigated other accused saying that the victim should not be spared. Thereafter, co-accused Bayadabai abused him and pelted stones on the tractor. Hanumant also abused the father of the complainant. Hanumant chased him. Then accused ran towards teen shed and brought axe. Hanumant

assaulted the father of the complainant with the blow of axe on his head. The victim fell down. The accused ran away from the place of incident. The FIR was lodged. The Statements of witnesses were recorded. On completing investigation, charge-sheet is filed.

3. Learned advocate representing both the applicants submitted that they have been falsely implicated in this case on account of property dispute. No role of assault is assigned to them. The applicants had allegedly instigated the co-accused. The co-accused Haridas who was attributed similar role has been granted bail by the Sessions Court. Statements of two witnesses Bankat Gaikwad and Chandrakant Hawalder were recorded belatedly. Their version is doubtful. There are no criminal antecedents against the applicants. The applicant Dattatray is suffering from paralysis and the requisite documents has been annexed to this application.

4. Learned APP submitted that the applicants are not entitled to bail on the ground of parity, while granting bail to co-accused Haridas, the court had taken into consideration his age and ailment suffered by him. There is sufficient evidence against the applicants. There is motive for the applicants to assault the deceased. They have participated in the crime. The act was done in furtherance of common intention. The Sessions court which had granted bail to the

co-accused had rejected the applications preferred by the applicants by distinguishing their case.

5. Learned counsel for the intervenor reiterated the submissions advanced by the learned APP. It is submitted that the incident had occurred on account of property dispute. Co-accused Haridas has been granted bail on different ground. The applicants are not entitled for bail on parity. There is evidence of witnesses referring to conversation between the accused regarding of assault on victim. Learned counsel for the intervenor on instructions from the complainant submitted that one more case was registered in past against the applicant Dattatraya Krushna Hande vide C.R. No. 62 of 2001. The offence is of serious in nature. Hence, bail may not be granted to the applicant.

6. The FIR refers to the fact that there was quarrel between both the parties. The complainant and his father were abused. The applicants and co-accused Haridas were present on the road and they were having some conversation. Hanumant Kolekar was also present along with them. He went towards his house and brought axe. The applicants had allegedly instigated other accused not to spare the victim and his father. Role assigned to the applicants is that they were present at the scene of offence and instigating the co-accused.

It is pertinent to note that co-accused Hanumant suddenly went towards house and brought axe and assaulted the deceased. The statement of Bankat Gaikwad was recorded on 13th November, 2019. He has referred the conversation between the applicants and co-accused Haridas Hande. He was accompanied by Chandrakant Hawaldar. They heard the conversation between accused wherein one of them was saying, action will have to be initiated against the victim Appa Hande. The version of the said witnesses is vague. There is delay in recording the statements. The statement of Chandrakant Hawaldar was recorded on 5th November, 2019. While granting bail to co-accused Haridas, the learned Sessions Judge had considered that he was suffering from ailment and he was senior citizen. However, in Paragraph 12 it is mentioned that having regard to prima facie circumstances and by judging the role allegedly played by Haridas, bail can be granted by exercising discretion in his favour. Considering the aforesaid circumstances case for grant of bail is made out.

7. Hence, I pass the following order :

ORDER

- i) Bail Application No. 3336 of 2019 & 3356 of 2019 are allowed;

- ii) The applicants are directed to be released on bail in connection with C.R. No. 557 of 2019 registered with Tembhorni Police Station, Dist. Solapur Rural on furnishing PR. bond in the sum of Rs. 50,000/- each with one or more sureties in the like amount;
- iii) The applicants shall report concerned police station once in a month on every first Saturday between 10.00 am. to 12.00 noon till conclusion of trial.
- iv) Bail Applications as well as Intervention applications stand disposed of accordingly.

(PRAKASH D. NAIK, J.)