

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1444 OF 2021

1. Dattatrya Eknath Sabale	
2. Bharti Dattatrya Sabale	...Applicants
Versus	
The State of Maharashtra	...Respondent

Mr. Shailesh Chavan i/b Mr. A.S.Khandkar for the Applicants.

Mr. H.J.Dedhia, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 6th SEPTEMBER, 2021

P.C. :

1. Heard learned Counsel for the parties.
2. At the outset, learned Counsel for the applicants states that the applicant No.1 has expired during the pendency of this application and hence, the application does not survive qua the applicant No.1.
3. By this application, the applicant No.2 Bharti Dattatrya Sabale seeks her enlargement on bail in connection with C.R. No. 393 of 2020

registered with the Satara Taluka Police Station, Satara, for the alleged offences punishable under Sections 302, 143, 147, 148, 149, 201 read with 34 of the Indian Penal Code.

4. Perused the papers. The incident, in question, has taken place on 21st July, 2020. The complainant is Dhiraj Kumbhar, a Police Constable attached to the Satara Taluka Police Station. The complainant, in his complaint dated 22nd July, 2020 has stated that whilst he was on patrolling duty, he received a call that one Priti Sabale was being assaulted. Pursuant thereto, Priti Sabale was contacted. Priti Sabale disclosed that her brother Amit and Ranjit were assaulting their neighbour Sachin. The complainant has further stated that when he visited the spot, he saw Sachin lying on the ground with his left leg broken and with bleeding injuries on his head. He has stated that Sachin disclosed to him that Ranjit and Amit had assaulted him with an axe. According to the complainant, Priti Sabale had disclosed to him, that her brothers Ranjit and Amit had assaulted Sachin, as Sachin was harassing and troubling her and her daughter.

5. Admittedly, the applicant No.2 - Bharti has not been named in the FIR. It appears that subsequently, an anonymous letter dated 3rd August, 2020 was sent to the parties. In the said anonymous letter, it was

stated that apart from Amit and Ranjit, the present applicants and 2 others also assaulted Sachin. Papers of investigation reveal that the said four persons who allegedly sent the anonymous letter, had in their earlier statements dated 22nd July, 2020 not disclosed anything about the incident i.e. alleged assault on Sachin, by any person, much less the applicant No.2. It appears that subsequently, on 26th August, 2020, after more than one month, the said persons, who had sent the anonymous letter, gave statements, stating therein, that apart from Amit and Ranjit, four others (including the applicants) also assaulted Sachin. According to the said alleged eye-witnesses, the applicant No.2 was armed with a stick.

6. The applicant No.2 is in custody since 7th December, 2020 and as such, her further detention in the facts, is unwarranted. Investigation is complete and chargesheet is also filed in the said case. The applicant No.2 is also stated to be HIV positive.

7. Considering the role of the applicant No.2 as stated aforesaid, the applicant No.2 has made out a case, for grant of bail. Accordingly, the application is allowed and the applicant No.2 is released on bail, on the following terms and conditions :

ORDER

- (i) The application does not survive against applicant No.1, as he has expired.
- (ii) The applicant No.2 be released on cash bail in the sum of Rs. 10,000/-, for a period of eight weeks;
- (iii) The applicant No.2 shall within the said period of eight weeks, furnish P.R. Bond in the sum of Rs. 10,000/- with one or two sureties in the like amount;
- (iv) The applicant No.2 shall inform her latest place of residence and mobile contact number, if any, soon after being released on bail and/or if there is any change of residence or mobile details, time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) The applicant No.2 to cooperate in the conduct of the trial;
- (vi) The applicant No.2 shall file an undertaking with regard to clauses (iv) to (v) in the trial Court, within two weeks of their release;

(vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8. The application is partly allowed in the aforesaid terms and is accordingly disposed of.

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

10. In view of the order passed in the aforesaid Bail Application, the Interim Application filed by the applicant No.2 for temporary bail does not survive and accordingly, the same is disposed of.

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

REVATI MOHITE DERE, J.