

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

BAIL APPLICATION NO.693 OF 2020

Kanhaiyya Balu Malla and Anr. Applicants

Vs.

The State of Maharashtra Respondent

Mr. Nitin Sejjal a/w Hiren Mehta for Applicants.
Mr. A.R. Kapadnis, APP for State.
API, Mr. N.K. Yashvantrao, Bhiwandi City PS.

Coram : NITIN W. SAMBRE, J.

Date : 4th OCTOBER, 2021

P.C.:

1. Both the applicants were arrested on 20th October, 2017 in Crime No. I-337 of 2017, registered at Bhiwandi City Police Station, for the offence punishable under Sections 302, 324, 452, 143, 147, 148, 149, 504, 506 of the Indian Penal Code.
2. The allegations against the applicants are, alongwith main accused Ramshila, the applicants assaulted deceased on the issue of non-payment of amount.

3. Counsel for the applicants would invite attention of this Court to the statement of the eye witnesses, the role attributed to the applicants and the order dated 21st August, 2019 and 28th January, 2020 ordering release of co-accused, who was similarly placed. It is claimed that even if the trial has commenced, this Court has exercised its jurisdiction in granting the bail to co-accused Daddu Paswan on 28th January, 2020.

4. Learned APP has opposed the prayer on the ground that the eye witnesses have specifically named said applicants of actively participated in the crime. It is further claimed that Section 149 is invoked against the applicant and the trial is at an advance stage.

5. Considered submissions.

6. The role attributed to the applicants is that of assault by fist blows.

7. As far as main accused is concerned, it is claimed to have been assaulted the deceased by hard and blunt object which single injury has resulted into the death.

8. The other similarly placed co-accused Daddu Paswan and Fulkaran Paswan are already ordered to be released by this Court inspite of trial having commenced.

9. In that view of the matter, the application is allowed on following terms and conditions :

ORDER

1 The applicants be released on bail in Crime No. I-337 of 2017, registered at Bhiwandi City Police Station, for the offence punishable under Sections 302, 324, 452, 143, 147, 148, 149, 504, 506 of the Indian Penal Code, on furnishing P.R. bonds in the sum of Rs.15,000/- each with one or more sureties in the like amount.

2. The applicants shall neither influence the prosecution witnesses in any manner nor tamper with the evidence.

3. Single default on the part of the applicants in attending the trial will entail the trial Court to proceed with cancellation of the bail.

4. The statement made by learned counsel for the applicants that the applicants shall regularly attend the trial is accepted as an undertaking.

(NITIN W. SAMBRE, J.)