

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1564 of 2020

Damodar Mahadu Bandal	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

WITH
INTERIM APPLICATION NO. 1401 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.1564 OF 2020

Damodar Mahadu Bandal	.. Intervenor
Versus	
State of Maharashtra	.. Respondent

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Ms Swapna P. Kode for the applicant.
Mrs.M.H. Mhatre, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 8th SEPTEMBER 2021.

P.C:-

1 The applicant came to be arrested on 1st April 2017 in C.R.No.27 of 2017 being charge-sheeted for the offence punishable under Section 302, 324, 365, 143, 147, 149, 504 of the IPC, seek his release on bail.

2 The foremost ground seeking his release is his long incarceration and the fact that till date, no charge is framed. The submission advanced is pending trial, he cannot be incarcerated

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indefinitely and the applicant is ready to abide by the terms and conditions which this Court may impose on being released on bail.

3 The charge-sheet reveal that the investigating machinery was set rolling on a complaint filed by one Sachin Dalvi on 31st March 2017, alleging that he is residing on the given address along with his family, which include his mother and brother and there was a previous enmity with the present applicant and others on account of a land dispute and cases were instituted in the competent Court. Narrating the incident dated 31st March 2017 at 9.00 am when the complainant and his brother Nitin as well as mother Ratna and 7 other masons were working on the site, it is alleged that all the 14 accused persons arrived at the spot and questioned them about the construction being undertaken. It is alleged that the applicant (Accused No.1) along with Accused no.2 Murlidhar had wooden sticks in their hand and they directed Nitin to stop the work immediately and when a justification was offered by him and his mother Ratna, it is alleged that accused nos.1 and 2 started assaulting Nitin by means of a bamboo stick and when the complainant and his mother came to his rescue, they were also assaulted. The complainant further narrate that accused no.3 Shyam and accused no.4 Suraj who are armed with iron rod also assaulted Nitin on his back and leg, causing serious injuries to him, for the other

accused persons are alleged to have assaulted Nitin and the complainant by fist and blows. His mother Ratna was also injured at the hands of other accused persons.

4 The post mortem of the deceased Nitin record that two contused lacerated wounds and one contusion right elbow along with three fractures and various contusion and abrasions on the back, forearm, knee, wrist etc. The cause of death is opined as ‘hypovolumic shock due to hemorrhage thorax with polytrauma due to multiple fractures’. The deceased has succumbed to the injuries on 11th April 2017 i.e. approximately 11 days after the assault was mounted.

5 The charge-sheet compile statement of various witnesses and has attributed a specific role to the present applicant being assaulting deceased by means of a wooden stick along with other accused i.e. Accused no.2. The version is that accused nos.3 and 4 had also assaulted by means of iron rod. All the accused persons i.e. accused nos.2, 3 and 4 are released on bail by this Court.

6 Learned counsel placed on record a chart of the accused and their status as on today which reflect that barring the present applicant, all the accused persons are either released on regular bail or are admitted to pre-arrest bail considering the role attributed to them.

7 True it is, that the offence is serious and grave and the applicant's role has clearly surfaced in the charge-sheet being assaulting the deceased by means of wooden rod. Though the post mortem reveal that the injuries are in form of contused lacerated wound and contusions on the outer part of the body and no serious injury to any internal organs or vital organs of the body has been noted in the post mortem report. A cumulative effect of various fracture injuries has caused his death, after 11 days of the incident. The investigation is complete and the entire material against the present applicant is compiled in the charge-sheet. The applicant cannot be kept incarcerated indefinitely as right of speedy trial is also available to him as his fundamental right, his arrest being effected on 1st April 2017, down the line, more than four years, even the charge is not framed. In such circumstances, securing the interest of the applicant as well as the family of the victim by imposing a condition that he shall not enter the jurisdiction of Murbad, till framing of charge, the applicant is entitled to be released on bail.

ORDER

- (a) The Applicant – Damodar Mahadu Bandal in connection with C.R.No.I-27 of 2017 registered with Tokawade Police Station shall be released on bail on furnishing P.R. bond to the extent of

Rs.25,000/- with one or two sureties of the like amount.

- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.
- (c) The Applicant shall not enter the jurisdiction of Murbad.
- (d) The applicant shall mark his presence before the Addl. Sessions Judge, Kalyan where the case is committed on first Monday of every month.

The Application is allowed in the aforestated terms.

In view of the disposal of Bail Application, Interim Application does not survive and is disposed of accordingly.

SMT. BHARATI DANGRE, J