

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3363 OF 2019

Jayram Yashwant Patil .. Applicant

Vs.

The State of Maharashtra .. Respondent

...

Mr. Shivraj R. Patil with Mr. Sagar S. Tambe for the Applicant.

Ms. S.S. Kaushik, A.P.P. for the State.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 17TH MARCH, 2021.

P.C:-

1. The Applicant seeks his release on bail in C.R. No.I-172 of 2019 with Wada Police Station on the ground of parity with co-accused Jayshri Jairam Patil, his wife. The said C.R. invoked Section 302 read with Section 34 of the IPC against two accused persons and the present Applicant was arrested on 20/06/2019 and since then, he is incarcerated. Charge-sheet has been filed on completion of investigation and his attempt to seek freedom was denied by rejection of his bail application.

2. Sketchy picture of the prosecution which can be discerned from the charge-sheet is like this:- the Complainant on 12/06/2019 witnessed that his brother Jayram and his wife Jayshri were assaulting his other brother Dilip Yashwant Patil by means of wooden sticks and it appeared that the assault and the abuse were on account of felling of mangoes from the trees. On an attempt by the Complainant to intervene, he was also threatened with dire consequences and, therefore, he was unable to intercept the assault. The deceased was taken to the hospital and offered treatment where he succumbed to the injuries on 13/06/2019 at 8.30 p.m. The cause of death has been ascertained to be the head injury due to hard and blunt impact.

3. The charge-sheet also compiled the statements of eye-witnesses which included the statement of Sangeeta Sanjay Patil, wife of the elder brother of the Complainant, Sanjay Patil and she has reiterated the case of the prosecution being that the deceased Dilip Patil was assaulted by the two accused persons by means of wooden rods in their hands and that he was assaulted on head, face and hand, resulting in bleeding injuries.

4. In the aforesaid facts collated in the form of evidence and compiled in the charge-sheet, the co-accused Jayshri approached

the Additional Sessions Judge, Thane, by filing Bail Application No.2785 of 2019. On 17/10/2019, the said Bail Application came to be allowed with the following observations:

“14. Taking into considering the above said facts and circumstance as it appears from the circumstances along with the offences committed there does not appear pre-meditation or any previous plan to commit offence. It was a sudden reaction by the accused persons when they saw the deceased climbing on the Mango Tree it was out of anger which being the reason for quarrel hence taking into consideration, the applicant/accused is in custody since 24/06/2019. Investigation is completed charge-sheet is filed and moreover her husband is in jail. In the said circumstances, there are less possibility that applicant/accused if released on bail would abscond. I find a fit case for bail. The apprehension of prosecution is safeguarded by imposing stringent conditions. The observations are for limited purpose for deciding present application, it may not have effect on the merits of case. On the above said observations, considering the facts and circumstances, I pass the following order:-”

5. I see no reason why the same analogy cannot be extended to the present Applicant since the role attributed to both the accused persons is collective and it is clear from the version of the witnesses that both the accused assaulted the deceased by means of wooden sticks. The reason for the assault being trivial i.e. felling of mangoes from the trees by the deceased when the accused picked up the wooden stick lying nearby and in a heat

of anger without any premeditation assaulted the deceased, who succumbed to the assault. In absence of any preparation to commit the offence, the Sessions Judge has rightly considered the release of the co-accused Jayshri. Considerations and parameters for grant of bail are not merely restricted to the gravity of offences but also other facts being the possibility of the accused tampering with the prosecution evidence or fleeing the course of justice. Since learned A.P.P. has not expressed any such apprehension, in my considered view, the same approach adopted by the Sessions Court in case of the co-accused needs to be extended to the Applicant, subject to the similar stipulation as has been imposed on the co-accused while releasing her on bail. The Applicant is, therefore, entitled to be released on bail on the following conditions:

:ORDER:

- (a) The Applicant – Jayram Yashwant Patil shall be released on bail in C.R. No.I-172 of 2019 registered with Wada Police Station on executing P.R. bond in the sum of Rs.30,000/- and furnishing 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 and shall not tamper with prosecution evidence.

- (c) The Applicants shall mark his attendance in the Wada Police Station on every Saturday between 10.00 a.m. and 02.00 p.m. until further orders.

- 6. The Application is allowed in the aforestated terms.

SMT. BHARATI DANGRE, J.