

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1587 OF 2022

YOGESH @ GOTYA CHANDRA SONKAMBLE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Shailendra S. Gangakhedkar
APP for Respondent : Mr. K. S. Patil

...
AND
BAIL APPLICATION NO.1706 OF 2022

NIVRUTTI @ NILESH RAOSAHEB GORTHEKAR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Dhananjay M. Shinde
APP for Respondent : Mr. S. B. Narwade

...

CORAM : S. G. MEHARE, J.
DATE : 05-12-2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned A.P.P. for the respondent/State.
2. A vehement argument has been advanced by the learned counsel for the applicants that the applicants have been arraigned as an accused only on suspicion. The CCTV footage does not show the presence of applicant Yogesh @ Gotya Chandra Sonkamble. There is no evidence that another applicant Nivrutti @ Nilesh Raosaheb Gorthekar actually assaulted the deceased. The quarrel took place in the spur of moment. The father and the brother of the deceased have raised the suspicion on the first informant.

Nothing incriminating is recovered at the instance of the applicants. They are young boys, having no antecedents to their discredit. They are from good families. They are languishing in jail for sufficient time. Hence, they may be granted bail.

3. On the last date, when the arguments were advanced in detail, questions arose, whether the applicant - Yogesh @ Gotya really has been seen in the CCTV footage as it was mentioned in its transcription ? and, whether the applicant - Nivrutti @ Nilesh assaulted the deceased with tile ?

4. The learned A.P.P. called the Investigating Officer. On instructions, he would state that applicant Yogesh @ Gotya was not seen in the CCTV footage. However, whether the applicant - Nivrutti @ Nilesh actually assaulted the deceased with tile, is not clear.

5. The learned counsel for applicant - Nivrutti would submit that the so-called allegations of assaulting to deceased by applicant Nivrutti on the side of the face does not match with injuries found in the post-mortem report.

6. The State opposed the applicants on the ground that offence is grave.

7. Perused the chargesheet and papers.

8. It seems that applicant - Yogesh @ Gotya was not seen present on the spot of the incident. There is no specific material

against him about the role attributed to him. So far as role alleged against applicant - Nivrutti is concerned, it is not clear from the CCTV footage that he had assaulted the deceased with tile.

9. The applicants are languishing in jail since February-2022. They are young boys having no antecedents. Considering the age of the accused and the CCTV footage relied upon by the prosecution and facts discussed above, the Court is of the view that the applicants have good case for bail. It would be harmful to keep the applicants in jail with hardened criminals.

10. For the above reasons, the applications deserve to be allowed. Hence, the following order :-

- i) Applications are allowed.
- ii) Applicant - Yogesh @ Gotya s/o. Chandar Sonkamble in B.A.No.1587 of 2022 and applicant -Nivrutti @ Nilesh s/o. Raosaheb Gorthekar in B.A.No.1706 of 2022, be released on bail, on furnishing PB and SB of Rs.50,000/- each, with one solvent surety of the like amount each, in C.R.No.67 of 2022 registered with Shivaji Nagar Police Station, District Nanded, for the offence punishable under Sections 302, 307, 341, 143, 144, 148, 149, 201, 324 of the Indian Penal Code and Section 4/25 of the Arms Act, on the conditions that they shall not tamper with the prosecution witnesses and visit the place of their residence till conclusion of the trial.

**(S. G. MEHARE)
JUDGE**