

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 584 OF 2015

Ganesh Arun Pote. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Pradyumna Waghmare, advocate for Applicant.

Mr. Y.M. Nakhwa, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JULY 7, 2015

P.C.:

1 Heard the learned counsel for the applicant and the learned APP
for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal
Procedure, 1973. The applicant herein is arrested on 13th February,
2015 in Crime No. 42 of 2014 registered at Meghwadi Police Station,
Mumbai for offence punishable under Section 307, 302, 452, 323,
120B read with Section 34 of the Indian Penal Code. The
investigation is completed and charge-sheet is filed.

3 The incident in question has taken place on 6th February, 2014 at about 8.15 p.m. It is alleged by the prosecution that four unidentified persons came to the shop of Rajesh Arshid and out of which two persons entered the shop. It is alleged that one of them gave a fist blow and hence the deceased fell on the counter. It is alleged that at that time the assailants took out a chopper and assaulted the deceased on his head. Pursuant to which the deceased succumbed to the injuries. It was revealed during the investigation that the present applicant was also present along with the other co-accused at the time of the incident.

4 The learned Counsel for the applicant has drawn the attention of this Court to the order passed by the Hon'ble Shri Justice P.D. Kode, (Retired) dated 12/1/2015, wherein co-accused has been enlarged on bail. Similarly, co-accused Vikram Krishna Salunke is enlarged on bail vide order dated 6th May, 2015 by the coordinate bench. The name of this applicant does not find place in the FIR.

That the applicant has not been identified as one of the accused involved in the offence in the test identification parade. Similar statement of eye witness would indicate that principal role is attributed to Suraj Pote and no specific role is attributed to the present applicant. The learned Counsel submits that by virtue of doctrine of parity, the present applicant is also entitled to grant bail as the co-accused who have been enlarged on bail are similarly situated. In view of this, the application deserves to be allowed.

5 The observations hereinabove are prima facie in nature. The same shall not be considered while deciding the application for discharge or quashing of FIR or at the time of trial. The trial Court shall decide the matter uninfluenced by the observations hereinabove in accordance with law.

6 Hence, following order is passed.

ORDER

(i) The application is allowed.

(ii) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/with one or two local sureties in the like amount.

(iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Jogeshwari Police Station, Mumbai.

(iv) The Applicant shall attend the concerned Police Station in whose jurisdiction he intends to reside, once a fortnight i.e on 1st and 3rd Sunday of every month between 10.00 a.m. to 12.00 noon, till the conclusion of the trial.

(v) The Applicant shall not leave Mumbai and Thane District, without the permission of the Trial Court, till the conclusion of the trial.

(vi) The Applicant shall not tamper or attempt to threaten/influence the complainant or any persons concerned with the case.

(vii) The Applicant shall cooperate in the conduct of the trial and shall attend the concerned Court on every date of the hearing.

(viii) An undertaking to the aforesaid clauses (iii), (iv), (v), (vi) and (vii) shall be filed by the Applicant, in the Trial Court, within two weeks after his release.

(ix) It is made clear, that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

7 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)