

Anand

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

BAIL APPLICATION NO.731 OF 2015

Mustak Abdul Rajjak Shaikh .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.P.G.Sarda, Advocate, for the Applicant

Mr.Arfan Sait, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 25.08.2015

P.C.

. Heard learned counsel for the applicant
and the learned APP for the respondent – State.

2. By this application, the applicant
seeks his enlargement on bail in connection with
C.R.No.42 of 2014 registered with the Alandi
Devachi Police Station, Pune(Rural), for the
alleged offences punishable under Sections 302,
341 r/w.34 of the Indian Penal Code, 1870.

3. The alleged incident is stated to have taken place on 19.05.2014. The complainant is the younger brother of the deceased - Balasaheb Namdeo Wabale. Admittedly, the complainant - Santosh Wabale is not an eye witness to the said incident. In his complaint, he has expressed suspicion on two persons namely, Anand alias Balu Sadashiv Kanade & Rajshri Machindra Gadekar (original accused Nos.1 & 2). The present applicant was arrested on 23.05.2015.

4. Learned counsel for the applicant submitted that the name of the present applicant is not disclosed in the FIR nor is there any recovery at his instance. He submitted that the only witness in the present case, is one Somnath Jaysing Chavan and that the said witness has also not disclosed the name of the present applicant.

5. Perused the charge sheet, the papers of the Test Identification Parade & the papers of investigation. Admittedly, the name of the present applicant is not disclosed in the FIR nor is there any recovery at his instance. Similarly, the only eye witness in the said case is one Somnath Chavan, who also does not disclose the name of the present applicant. The present applicant has also not been identified in the Test Identification Parade. The applicant has no antecedents.

6. Considering the material on record, the applicant is enlarged on bail on the following terms and conditions:

ORDER

(i) The applicant be released on bail in connection with C.R.No.42 of 2014 registered with the Alandi Devachi Police Station, Pune(Rural) in the sum of Rs.25,000/- with one

or two local sureties in the like amount;

(ii) The applicant shall not tamper or attempt to contact the complainant or any witness concerned with the said case;

(iii) The applicant shall inform his latest place of residence and mobile 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 Alandi Devachi Police Station, Pune(Rural);

(iv) The applicant to co-operate with the conduct of the trial and shall attend the Court on every date;

(v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear, that the observations are prima facie for the purpose of deciding the application and the learned Judge shall conduct the case on its own merits, uninfluenced by the observations made herein.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)