

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

CRIMINAL APPLICATION NO. 1533 OF 2015

Mr. Ganesh Hannu Rathod

... Applicant.

V/s.

The State of Maharashtra

... Respondent.

Mr. Nitin Pradhan i/by A.V. Nikam, Advocate for the Applicant.

Ms. Veera Shinde, A.P.P. for the Respondent – State.

PSI J.D. Khalane, Nigadi Police Station, Pune, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 16th SEPTEMBER, 2015

P.C. :

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

2 By this application, the applicant seeks his
enlargement on bail in connection with C.R. No. 530 of 2014
registered with the Nigadi Police Station, Pune for the alleged
offences punishable under Sections 302, 307, 143, 144, 147,
148, 149, r/w. section 34 of the Indian Penal Code r/w.
Section 3(1)(25) of the Arms Act.

3 The complainant is one Nilesh Dhekane. According to the complainant, the incident took place on 10th December, 2014 when he had gone with his employer Mr. Prakash Chavan. He has alleged that some 4-5 unknown persons fired at Prakash Chavan with a gun, in which his employer Prakash Chavan and he himself received bullet injuries. Prakash Chavan succumbed to the bullet injuries on the spot. The complaint was lodged as against unknown persons. In the said case, 9 accused came to be arrested. The present applicant is original accused no. 6. Learned counsel for the applicant states that although there are six eye witnesses in the said case, none of the eye witnesses have identified the present applicant. He submits that there is no recovery against the present applicant. According to the learned counsel there is no admissible material to connect the applicant with the alleged offence.

4 Learned APP does not dispute the fact, that the present applicant has not been identified by any of the eye - witnesses nor is there any recovery at his instance. He, however, states that there are CDR's which show that the applicant was in touch with the main accused on the date of the incident. On being questioned, he states that the applicant has no antecedents.

5 Learned counsel for the Applicant states that the CDR's are not part of the chargesheet. Be that as it may, the

applicant has neither been identified in the identification parade by any of the eye-witnesses nor is there any recovery at his instance nor is there any other material in the form of motive/ last seen. The only alleged material against the applicant is CDR's, which allegedly show that calls were exchanged between the applicant and the main accused. The said CDR's are not part of the chargesheet. The applicant is in custody since 18.12.2014. Investigation is complete and chargesheet is filed. The applicant also has no antecedents.

6 Considering the aforesaid material qua the applicant, the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the concerned police station on the first Saturday every month from 10 a.m. to 11 a.m. till the conclusion of the trial.

(iii) The applicant shall not contact, tamper or attempt to influence the complainant, witnesses or any other person concerned with case.

(iv) 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 concerned police station.

(v) The applicant shall co-operate in the conduct of the trial.

(vi) 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 made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

 All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)

.....

CERTIFICATE

*Certified to be true and correct copy of the original
signed order.*
