

Anand

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

BAIL APPLICATION NO.1538 OF 2015

Rajendra Chandrakant Dhawade .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.R.Chavan, Sr.Counsel i/b.Mr.S.M.Mangaonkar,
Advocate, for the Applicant

Ms Veera Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 30.10.2015

P.C.

. Heard Learned Senior 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.10 of 2015 registered with the Warje
Malwadi Police Station, Pune, for the alleged
offences punishable under Sections 120B, 143,
147, 148, 149, 201 & 302 of the Indian Penal

Code, under Sections 3, 4, 25 & 27 of the Indian Arms Act and under Section 37(1) r/w.135 of the Bombay Police Act.

3. The complainant – Rohit Shinde is the brother of the deceased – Sachin Shinde. He has alleged that the incident took place on 06.01.2015 at about 10.30 p.m. He has stated that when he was at home, the deceased's friend, Sachin Gaikwad came and took him near the Warje bridge, where his brother Sachin was lying in a pool of blood. Pursuant to the same, Rohit lodged a complaint as against Shubham Dhawade (son of the applicant) and others alleging therein, that they had assaulted his brother Sachin (deceased) with koyta, satoor and pistol. According to him, Shubham was angry with Sachin(deceased) as he had married his sister against their family's wishes.

4. Learned Senior Counsel for the applicant states that the applicant is the father of co-accused Shubham. He submits that there is no material as against the applicant, to connect him with the alleged offences. He submitted that the letter dated 09.01.2015 addressed by the Senior Police Inspector, Warje Malwadi, Pune to Thane Amaldar, Warje Malwadi, Pune, which is on page No.71 of the application is inadmissible, inasmuch as, the alleged disclosure is made by the present applicant to a police officer. He further pointed out to the statements of Mr.Avinash Chandrakant Kabade which is on page No.68 of the application and Mr.Tushar Ulhas Kavade which is on page No.69 of the application. He submitted that the said statements do not in any way connect the applicant with the alleged offences. According to him, the only offence, if at all, would be one under Section 201 of the Indian Penal Code,

which is bailable.

5. Learned APP does not dispute the aforesaid facts. She submits that the only material is aforestated.

6. Perused the charge-sheet. Admittedly, the applicant was not present at the spot at the time of commission of the alleged offences. The CCTV footage, which is an integral part of the charge-sheet also does not show the presence of the applicant at the spot. The statement of Avinash Kabade shows, that after the assault on the next day i.e. on 07.01.2015 at about 2.00 p.m., the applicant gave him a bag, mobile and Rs.5,000/- to be delivered at Nehru Chowk. According to the said witness, he received a call from Shubham on the mobile, who asked him to come to Navsha Maruti Chowk, where he handed over the said articles to Shubham. According to

the other witness Tushar Kavde (friend on the deceased), co-accused Shubham called him on his mobile and asked him to inform his family that he had killed Sachin Shinde. He has stated that he met the applicant and made him speak to Shubham. The said witness has not heard the conversation. There is no recovery of any weapon/article at the applicant's instance and the statements of these two witnesses by itself, at this stage, prima facie, are not sufficient to show the complicity of the applicant in the alleged offences.

7. Considering the aforesaid, the applicant is enlarged on bail on the following terms & conditions:

O R D E R

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

(ii) The applicant shall attend the Warje Malwadi Police Station, Pune on the first Saturday of every month between 10:00 a.m. and 11:00 a.m. till the conclusion of the trial;

(iii) The applicant shall not tamper or attempt to influence or contact the wife of the deceased i.e. his daughter or witnesses or any person concerned with the 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 to cooperate with 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.

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

9. 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.)