

Anand

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

BAIL APPLICATION NO.1592 OF 2015

Anil Vasant Chavan .Applicant

v/s.

The State of Maharashtra .Respondent

WITH

BAIL APPLICATION NO.1468 OF 2015

Adinath Hasraji Garje .Applicant

v/s.

The State of Maharashtra .Respondent

Mr.Anil Lalla with Ms Beerta Bajwa, Advocate,
for the Applicants

Mr.S.S.Pednekar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 11.09.2015

P.C.

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

2. By these applications, the applicants

seek their enlargement on bail in connection with C.R.No.I-139 of 2014 registered with the Kamothe Police Station, Navi Mumbai, for the alleged offences punishable under Sections 320, 341, 120B r/w.34 of the Indian Penal Code, 1870.

3. The alleged incident has taken place on 21.07.2014 at about 10.50 p.m.. The complainant -Ashok Mhaskar is the brother of the deceased Ankush Mhaskar, who was assaulted by unknown persons outside his residence. According to the complainant - Ashok Mhaskar, he was at home having dinner, when his brother Ankush Mhaskar, was assaulted. On hearing someone call out his name, he came out and saw that some residents of his building had gathered and that his brother Ankush was lying injured in a pool of blood on the road adjoining the building. Ankush's right hand palm was severed, there were injuries on

his person. Ankush was taken to MGM Hospital, where he was declared dead. On 22.07.2014 at about 1.40 p.m., the complainant lodged an FIR as against unknown persons. During investigation, 12 persons came to be arrested in the aforesaid C.R.. The present applicants were arrested on 30.07.2014.

4. Learned counsel for the applicants in Cri.B.A.No.1468 of 2015 states that there is no material qua the said applicant except statement of the co-accused recorded under Section 27 of the Evidence Act. He submits that the said statement, being inadmissible cannot be looked into. As far as the applicant in Cri.B.A.No.1592 of 2015 is concerned, the learned counsel submits that the only evidence qua the said applicant is recovery of an Eeco car, which was allegedly used in the commission of offence. He submitted that although the said vehicle stands

in his name, there were no blood stains or weapons found in the vehicle. He submitted that the statements of the co-accused, being inadmissible cannot be looked into.

5. Learned APP states that although CDR records were collected, there is nothing to show that the present applicants were present at the location at the relevant time. He submits that CDR records only show that the applicants had called one of the co-accused prior to the incident and thereafter. He on the instructions of the investigating officer, who is present in Court states that there are no antecedents qua the applicants.

6. Perused the charge-sheet and the material qua the applicants. The statements of the co-accused recorded under Section 27 of the Evidence Act, wherein the name of the present

applicants are disclosed, are clearly inadmissible. As far as recovery of the Eeco car, at the instance of the applicant Anil Chavan is concerned, there are no witnesses, who state that the said car was used in the commission of the offence, nor were any blood stains found in the said car. The CDR records do not show the location of the present applicants at the spot at the relevant time. Both the applicants do not have any antecedents.

7. Considering the material on record qua the applicants, the applicant are enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicants be enlarged on bail, on executing PR Bond in the sum of Rs.25,000/- each with one or two sureties in the like amount;
- (ii) The applicants shall attend the Kamothe Police Station, Navi Mumbai Police Station on

the first Saturday of every month between 11:00 a.m. to 12:00 noon till the conclusion of the trial;

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

(iv) The applicants shall inform their 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 applicants to cooperate with the conduct of the trial and shall attend the Court on every date;

(vi) The applicants shall not enter the jurisdiction of the Kamothe Police Station, Navi Mumbai for a period of one year except for the purpose of attending the police station;

(vii) The applicant shall file an undertaking with respect to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) 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.)

CERTIFICATE

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