

Anand

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

**BAIL APPLICATION NO.190 OF 2016**

Tangappa Dharmraj Wadiyaar .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Gaurav Parkar, Advocate, for the Applicant  
Mr.H.J.Dediya, APP, for the Respondent – State

**CORAM : REVATI MOHITE DERE, J.**

**DATE : 07.07.2016**

**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.57 of 2012 registered with the RCF Police  
Station for the alleged offences punishable  
under Sections 302, 120B, 109, 504, 506B of the  
Indian Penal Code and under Section 4, 25 of the  
Indian Arms Act.

3. Learned counsel for the Applicant submits that the Applicant is entitled to be enlarged on bail on the ground of parity. He submits that the co-accused, who are the actual assailants, have been enlarged on bail, both, by this Court as well as by the trial Court. He submits that the sole eye witness-Fakruddin Baig has in his first statement dated 26.03.2012, not disclosed the name of the Applicant, as being present at the spot nor has he attributed any overt act to him. He submitted that only after three months i.e. on 10.06.2012, name of the Applicant has been disclosed by the eye witness -Fakruddin Baig, in which for the first time he has stated that the Applicant was present at the spot and was shouting "मारो सालोको असे छोडना नही" and was using abusive language. Learned counsel for the Applicant further submits that there is recovery of a sura, at the instance of the Applicant, however, the said sura is not

alleged to have been used by the Applicant. He submits that the Applicant has no antecedents.

4. Learned APP does not dispute the aforesaid facts.

5. Perused the papers. Investigation is complete and charge-sheet is filed. It appears that the sole eye witness in his statement has not disclosed the name of the Applicant, as being present on the spot nor has he attributed any overt act to the Applicant. It appears that only after three months, the sole eye witness in his statement, has disclosed the name of the Applicant, he has stated that the Applicant was present and was abusing and instigating the assailant to assault the deceased. It is not disputed that the co-accused, who are the actual assailants are enlarged on bail by this Court as well as by the trial Court. There are no antecedents qua the Applicant. Recovery of sura

would be inconsequential as the said sura is not alleged to have been used in the commission of the offence.

6. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions:

**ORDER**

(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 report to the investigating officer of the RCF Police Station on the **first Saturday of every month** between **10.00 a.m. to 12.00 noon** till the conclusion of the trial;

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, 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) The applicant shall file an undertaking with regard to Clause Nos.(ii) to (v) within two weeks of his release;

(vii) 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.

Parties to act on the authenticated copy of this order.

**(REVATI MOHITE DERE, J.)**