

Anand

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

BAIL APPLICATION No.226 OF 2016

Raju Kisan Tamchikar .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.P.G.Sarda, Advocate, for the Applicant
Ms R.M.Gadhvi, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 05.05.2016

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.167 of 2015 registered with the Pimpri Police Station, District – Pune, for the alleged offences punishable under Sections 143, 147, 148, 149 & 302 of the Indian Penal Code, under Section 37(1) r/w.135 of the Bombay Police Act and under Section 4(25) of the Arms Act.

3. The incident has taken place on 13.03.2015. It is stated by the Complainant, in the F.I.R., that his son – Mahesh was assaulted by some unknown persons. Later, in the supplementary statement, the Complainant has disclosed, that he learnt from Nitin Shinde that the present Applicant along with other co-accused had assaulted his son – Mahesh, pursuant to which the Applicant was arrested.

4. Learned counsel for the Applicant submits that except for recovery of a sword, there is no material to connect the Applicant with the alleged offences. He submitted that the recovery of sword is from an open place and that too, after six days of the incident. He submits that a perusal of the statement of Nitin Shinde on the basis of which, the Applicant came to be arrested and named in the supplementary statement of the Complainant shows, that even Nitin Shinde had not seen the incident of

assault, but had learnt about the said assault from some persons in the village. He submitted that there are no antecedents against the Applicant.

5. Learned APP does not dispute the fact that the only material against the Applicant is recovery of a sword. Learned APP has tendered an Affidavit of Gajanan Narayanrao Kadale, API, who is attached to the Pimpri Police Station, Pune. She submits that there are six antecedents qua the Applicant. Learned counsel for the Applicant submits that in all the cases, the Applicant has been acquitted. Learned APP does not dispute the same.

6. Perused the papers. There are no eye witnesses in the said case and the Applicant was arrayed as an accused only on the basis of suspicion. Apart from the recovery of a sword, there is no material to connect the Applicant

with the alleged offences in the form of last seen, motive etc. The Applicant has been acquitted in all the six cases. Investigation is complete and charge-sheet is filed.

7. Accordingly, 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 Pimpri Police Station, District – Pune on the **first Saturday of every month** between **10:00 a.m. to 11:00 a.m.** 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 one week 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.

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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)