

Anand

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

BAIL APPLICATION NO.263 OF 2016

Akshay S/o. Anilkumar Soni .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.S.S.Londhe, Advocate, for the Applicant
Smt.Veera Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 08.03.2016

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.
364 of 215 registered with the Deccan Police
Station, District – Pune, for the alleged offences
punishable under Sections 307, 506(2) r/w.34 of the
Indian Penal Code, under Section 3(25) of the Arms
Act and under Section 37(1)(3) r/w.135 of the

Bombay Police Act.

3. On 22.12.2015 at about 4.30 p.m. when the Complainant was going to pay his mobile bill at the Idea Gallery, Jangli Maharaj Road, Pune, at the signal of Savarkar Bhavan, one bike came and stood next to his Activa. The Complainant who was riding the Activa, with his cousin sitting pillion behind him, saw that the pillion rider on the bike had a pistol which was jutting out of the pocket. As the signal started, he followed the said two unknown persons who were on the two wheeler and tried to stop them. According to the Complainant, he stopped the said two persons and questioned the pillion rider, whether he had a license to carry the pistol. The said person disclosed to him, that he was from the ACB and that he came with a pistol to lay a trap. Pursuant thereto, the complainant is alleged to have asked him to show his identity card. As the said person could not produce the

identity card, the complainant asked him to come to the police chowky. Thereafter, as they were proceeding towards the police chowky, the two wheeler suddenly took a different route however, the Complainant and his cousin followed and cornered them. After the said persons got down, one of the persons removed the pistol from his waist and threatened to fire at the complainant and his brother. According to the Complainant, on seeing this, the Complainant's cousin and the Applicant stopped aside. Thereafter, there was a scuffle between the person carrying the pistol and the Complainant. It is alleged that at that time, the co-accused fired in the direction of the complainant, however, the bullet missed him. Thereafter, the accused are alleged to have fled from the spot.

4. Learned counsel for the Applicant states that the Applicant is a young boy, aged 19 years

studying in the 1st year of BBM (IB) in Sinhgad Institute, Pune. He submitted that the Applicant is not the person, who was carrying the pistol or who fired in the direction of the complainant. He submitted that the Applicant has himself surrendered to the police and had not participated in the commission of the offence.

5. Learned APP states that the Applicant has been identified by the Complainant in the identification parade. She submits that the Applicant was accompanying the co-accused who fired at the Complainant.

6. Perused the papers. Admittedly, the Applicant is not the person, who carried the pistol or fired at the Complainant. It appears that the Applicant had not participated in the altercation and scuffle that took place between the Complainant and the co-accused but was standing aside. The

Applicant is a young boy, aged 19 years studying in the college. The Applicant has no antecedents.

7. Considering the peculiar facts & circumstances of the case, the Applicant is entitled to be enlarged on bail on the following terms and conditions :

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 10,000/- with one or two sureties in the like amount;

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

(iii) 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;

(iv) The applicant to cooperate with the conduct of the trial;

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.)