

Anand

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

BAIL APPLICATION No.547 OF 2016

Gajanan Jaisingh Daberao .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Satyavrat Joshi, Advocate, for the Applicant
Smt.Veera Shinde, APP, for the Respondent –
State

CORAM : REVATI MOHITE DERE, J.

DATE : 28.04.2016

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.382 of 2014 registered with the
Chaturshrungi Police Station, District – Pune,
for the alleged offence punishable under Section
302 of the Indian Penal Code.

3. The prosecution case rests entirely on circumstantial evidence. The Applicant was working as a Security Guard with the Complainant i.e. Shivkumar Gupta. The Complainant has alleged that the Applicant came to his residence on 19.11.2014 at about 4.00 a.m. and disclosed to him, that some unknown persons had assaulted his (Applicant's) brother-in-law, pursuant to which an FIR was lodged alleging an offence punishable under Section 302 of the Indian Penal Code against unknown persons. During the course of investigation, the Applicant came to be arrested.

4. Learned counsel for the Applicant submitted that there is no material to connect the Applicant with the alleged offence. He submitted that only on the basis of suspicion, the Applicant has been arrested. He submitted that there are statements of four persons, i.e. Shrikrishna Shrisath, Mayur Gaikwad, Sanjay

Kalase & Vishal Kare, who have stated that they had seen an altercation/quarrel between the deceased and the Applicant. He submitted that all of them were consuming alcohol when the alleged incident took place and that after seeing the assault, one of the persons assaulted the Applicant, pursuant to which the Applicant left the spot. It is stated that thereafter, all the four persons sat with the deceased and continued consuming alcohol. Learned counsel for the Applicant submitted that there is no evidence of last seen qua the Applicant nor is there recovery of any weapon or article. He submitted that the spot, where the stone which was thrown was allegedly shown by the Applicant was, in fact, found on the spot. He submits that there are no antecedents qua the Applicant.

5. Learned APP submits that the Applicant had a strong motive to cause the alleged offence. However, she conceded that there is no

last seen or recovery qua the Applicant. She also does not dispute the fact that there are no antecedents qua the Applicant.

6. Perused the papers, in particular, the statement of Shrikrishna Shrisath, Mayur Gaikwad, Sanjay Kalase & Vishal Kare, who were present at the spot prior to the incident. The said witnesses have stated that there was an altercation between the Applicant and the deceased and that one of the said persons intervened and slapped the Applicant, pursuant to which he left the spot. It is stated that thereafter, all of them sat together with the deceased and consumed alcohol and thereafter, went home. There is nothing to show that the Applicant was, thereafter, last seen in the company of the deceased. Investigation is complete and charge-sheet is filed. There is no recovery at the instance of the Applicant nor are there any antecedents.

7. Considering the aforesaid, the applicant is 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.25,000/- with one or two sureties in the like amount;

(ii) The applicant shall report to the investigating officer of the Chaturshrungi Police Station, District – 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 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 not leave the jurisdiction of Pune City;

(vii) The Applicant shall file an undertaking with regard to Clause Nos.(ii) to (vi) within one week 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.

Parties to act on the authenticated
copy of this order.

(REVATI MOHITE DERE, J.)