

Anand

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

BAIL APPLICATION NO.2167 OF 2015

Parag Parshuram Patil .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Prabhakar Jagdale, Advocate, for the Applicant
Mr.D.P.Adsule, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 21.03.2016

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.99 of 2014 registered with the New Panvel
Police Station, Navi Mumbai, for the alleged
offence punishable under Section 307 r/w.34 of the
Indian Penal Code.

3. The Complainant is Vishwas Pundlik Patil, cousin of Shridhar Pundlik Patil. According to the Complainant, on 23.07.2014, he alongwith Shridhar Patil (deceased) and other friends from the village, had gone to Gadheshwar Dam. He has stated that when they were having a lunch, they stopped Ajinkya Pandav of Shivansai village, who had come to the said spot, alongwith his family and some ladies and girls. According to the Complainant, Shridhar (deceased) called Ajinkya-accused No.1 and invited him to have a drink. It is stated that one Ashok Patil asked Ajinkya-accused No.1, as to who the girls were, to which Ajinkya is stated to have retorted, "who is he to ask this question". It is stated that Shridhar(deceased) asked Ajinkya, why he was talking rudely, to which Ajinkya is stated to have replied, whether they knew who Ajinkya was and left the place. It is alleged that after returning from the party in the evening, at about 7.00 p.m., the Complainant alongwith

Shridhar(deceased) went to Ajinkya's home. It is stated that the family members of Ajinkya(Accused No.1) were present in the house. It is alleged that Shridhar(deceased) disclosed the incident to Ajinkya's mother, pursuant to which Ajinkya came there armed with a wooden log. It is alleged that one unknown person came there armed with a knife and two other unknown persons also came to the spot. It is stated that the said unknown person assaulted the deceased with a knife on his chest and back, as a result of which the deceased fell down. Ajinkya(Accused No.1) is alleged to have assaulted the deceased with a wooden log on his head and the other two unknown persons are stated to have pushed the Complainant against the wall. Pursuant to the said incident, the aforesaid complaint was lodged.

4. Learned counsel for the Applicant submitted that although, there are eye witnesses to

the said case, no identification parade has been held. He submitted that although, there is a recovery of a knife shown at the instance of the Applicant on 27.07.2014, in the spot panchanama drawn on 25.07.2014, knife was not found on the spot. According to the learned counsel, the knife was recovered from the same spot at the instance of the Applicant, where earlier a detailed panchanama was done, two days prior and as such the recovery of knife, appears to be doubtful. He submitted that admittedly, the Applicant had no motive to cause the murder of the deceased. According to him, the Applicant is a student, studying mechanical engineering in the 3rd year, in the Saraswati College of Engineering. He has produced the original identity card of the Applicant to show that he is a student of the Saraswati College of Engineering. A xerox copy of the said original identity card to be placed on record, during the course of the day.

5. Learned APP opposes the Bail Application. He does not dispute the fact, that the police ought to conducted the identification parade of the Applicant, considering the fact, that an unknown person had assaulted the deceased, and that the same was witnessed by several persons. He submits that, nevertheless, there is recovery of a knife and blood stained clothes, at the instance of the Applicant. On a query, he states that there are no antecedents qua the Applicant.

6. Perused the charge-sheet. It appears that admittedly, no identification parade has been held. Considering the fact, that an unknown person is alleged to have assaulted the deceased with a knife, no description of the assailant is given by any of the eye witnesses nor is parade held. There is recovery of knife and blood stained clothes at the instance of the Applicant. The Applicant is a student of Saraswati College of Engineering, where

he is studying mechanical engineering. Charge-sheet is filed and the Applicant has been in custody since his arrest i.e. 25.07.2014. The trial is not likely to commence soon.

7. Considering the aforesaid, 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.10,000/- with one or two sureties in the like amount;

(ii) The applicant shall report to the investigating officer of the New Panvel Police Station, Navi Mumbai on the **first Saturday of every month** between **11:00 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 not enter village -Shivansai;

(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.)