

Anand

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

BAIL APPLICATION NO.1448 OF 2017

Navin Kanhaiyyalal Keswani .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.R.D.Suryawashi, Advocate, for the Applicant
Ms A. Malhotra, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 28.08.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.I-25 of 2017 registered with the Shivajinagar Police Station, District – Thane, for the alleged offences punishable under Sections 304(II), 201 r/w 34 of the Indian Penal Code, under Sections 3, 27 of the Arms Act and under Section 37(1), 135 of the Maharashtra (Bombay) Police Act.

3. Learned counsel for the Applicant seeks bail on the ground of parity. He relied on the Order dated 01.07.2017 passed by this Court

(Coram : P.D.Naik, J.) in B.A.No.1128 of 2017.

4. Learned APP does not dispute the fact that co-accused – Satyajit Gaikwad has been enlarged on bail by this Court and that the Applicant stands on a better footing than co-accused – Satyajit Gaikwad who has been enlarged on bail by this Court. She however states that the Applicant has nine antecedents.

5. Perused the papers. According to the prosecution, the Applicant was invited alongwith co-accused for the naming ceremony to the house of Ashok Gaikwad. The Complainant's son – Pratik Gaikwad, aged 12 about years had gone to attend the said ceremony. At about 2.00 a.m., the Complainant was informed that Pratik was taken to the hospital. On reaching the hospital, the Complainant found that Pratik had sustained a bullet injury on his chest and was declared to be dead. It is alleged by the Complainant that in the naming ceremony, the Applicant alongwith co-accused – Aadesh, Ashish, Satyajit and Pratik were present. The incident which took place has been captured in the CCTV footage. From the CCTV footage, it was revealed that Satyajit was loading the revolver, which was handed over to him by co-accused – Aadesh, who in turn had received the same from the Applicant. In the

CCTV footage, it was revealed that Satyajit while loading the revolver accidentally misfired, resulting in Pratik sustaining a bullet injury and ultimately succumbing to the same. It is alleged by the prosecution, that the present Applicant had fired two rounds at the function in the air and that the Applicant, had thereafter, handed over the revolver to co-accused – Aadesh, who in turn had handed over the same to co-accused – Satyajit. It appears that at about 1.30 a.m., Satyajit started dancing with his friends and while loading the revolver accidentally misfired, resulting in Pratik sustaining a bullet injury. Admittedly, there was no animosity or motive to cause Pratik's death. It appears that the revolver accidentally misfired while loading, at the hands of Satyajit. It is not in dispute, that Satyajit has been enlarged on bail by this Court. No doubt, the Applicant has nine antecedents, but in the facts of the case, it was co-accused – Satyajit, who whilst loading the revolver, accidentally misfired, resulting in Pratik's death. Investigation is complete and charge-sheet is filed.

6. Considering the aforesaid, further custody of the Applicant is not required. 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.30,000/-** with one or two sureties in the like amount;
- (ii) The Applicant shall report to the investigating officer of the concerned police station on **1st 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 with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) The Applicant to cooperate in the conduct of the trial.

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.)