

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

CRIMINAL BAIL APPLICATION NO. 3 OF 2017

Sherbabhadur Shitalaprasad
Singh @ Sheru @ Amitsingh

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

.....
Mr. Ganesh Gole, Advocate for the Applicant.
Mrs. Verra Shinde, APP for the Respondent – State.
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CORAM : PRAKASH D. NAIK, J.

DATED : JUNE 6, 2017.

P.C. :

This is an application for bail in connection with C.R. No. I-147/2011 registered with Shivaji Nagar Police Station Ambarnath, which was investigated by Crime Detection Branch, Ulhasnagar for the offences punishable under Sections 302, 307, 326, 143, 147, 148, 149, 120-B and 201 of IPC and under Sections 3 and 25 of the Arms Act as well as under Sections 37(1) and 135 of the Bombay Police Act.

2 It is the prosecution case that on the day of incident i.e. 23rd November, 2011, the complainant along with his driver and other associates were headed towards Shivsena Shahar

Shakha, Ambernath. The driver and his bodyguards waited outside whereas the complainant went inside the office. While he was inside the office, he heard noise of some fire shots and saw his bodyguards and driver running in confusion. One unknown person started firing. The bodyguards of the complainant also fired at the unknown person. Some unknown persons were standing outside the office and were firing towards the office of the complainant. The bodyguard and his other guards got injured in the firing. As a result of the injuries, bodyguard Rakesh Yadav had succumbed to injuries.

3 The applicant was arrested on 13th November, 2013. Investigating machinery recorded the statement of witnesses and on completing the investigation, charge-sheet was filed and some of the witnesses have identified the applicant as one of the assailant present.

4 Mr.Gole, learned advocate for the applicant submitted that the applicant is in custody since 13th November, 2013. The trial has not commenced. He submitted that in all there are eleven accused involved in the case, out of which nine accused persons are granted bail by the Sessions Court and this Court.

One accused is absconding and the only person who is in custody is the applicant. He further submitted that the case of the applicant is similar to the persons who are directed to be released on bail. He pointed out the order granting bail to one of the accused Babusingh by the Sessions Court at Kalyan. The said order has been annexed to this application. On perusal of the said order, it is apparent that the said accused was also put up for identification parade and he was identified. He further pointed out that the order granting bail to one Rajeshkumar @ Gorakhnath Daddan Singh who was also granted bail by the Sessions Court vide order dated 8th October, 2015. The said accused was also arrested after a period of almost two years. Learned advocate, therefore, submitted that the applicant is entitled for bail on the ground of parity.

5 Learned APP submitted that the applicant had absconded for a period of two years and he has been identified by the witnesses. She also submitted that there are two cases pending against him at Sultanpur under Sections 3, 25 of the Arms Act which is registered at Jagdishpur Police Station, Uttar Pradesh. Another case under Section 307 read with Section 34 of IPC registered at the same police station. Both the cases are

pending in the Court. She, therefore, submitted that considering the involvement of the applicant and the fact that he was absconding and there are antecedents against him, bail may be refused to the applicant. Mr. Gole, however, submits that in the light of the orders pointed out earlier, the person who was purportedly absconding as well as the persons who was identified are granted bail by the Sessions Court. He also pointed out another order of this Court wherein the person having antecedents was also granted bail by this Court. All these orders have been annexed to this application. Learned advocate further submitted that the identification of the applicant after a period of two years itself comes under a shadow of doubt because it is difficult to identify a person after such a long gap of time.

6 Taking into consideration that the other accused are granted bail and the accused who are similarly placed are also directed to be released on bail, and that applicant was identified after two years, I am inclined to grant bail to the applicant on certain terms and conditions:

:: ORDER ::

- (i) The applicant is directed to be released on bail

in connection with C.R.No.I-147 of 2011 registered with Shivaji Nagar Police Station Ambarnath which is the subject matter of Sessions Case No.106 of 2012, pending in the Court of Sessions Judge, Kalyan, on executing P.R. Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand) with one or more local sureties in the like amount;

- (ii) The applicant is directed to attend Shivaji Nagar Police Station, once in fortnight between 5.00 to 7.00 p.m. till the trial is over;
- (iii) The applicant should not leave the jurisdiction of this Court without seeking permission from this Court;
- (iv) The applicant shall not tamper with the prosecution witnesses;
- (v) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)