

nsc.

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

CRIMINAL BAIL APPLICATION NO.12 OF 2017

Sharad Baban Choure	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.A.U.Nikam i/b Mr.Aashish I. Satpute, for the Applicant

Mr.S.S.Pednekar, A.P.P. for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 6th JUNE, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.156 of 2015 registered with the Bhigwan Police Station, Pune for the alleged offences punishable under Sections 302, 307, 143, 147, 148, 149 of the Indian Penal Code and under Sections 3 (1)(i) (ii), 3(4) of Maharashtra Control of Organized Crime Act, 1999 and under Section 3(25) (27) of the Arms Act.

3. Learned Counsel for the applicant submits that the applicant was working as a driver on the vehicle of co-accused Sanjay Tanpure. He submitted that no specific role nor any overt act has been attributed to the applicant in the said case and as such the applicant cannot be said to be guilty of the offences with which he is charged. He further submitted that there are no antecedents, qua the applicant.

4. Learned APP does not dispute the fact that no overt act has been attributed to the applicant, in the said case. He, however, submits that the applicant was present alongwith other accused when the incident took place. He also does not dispute the fact, that the applicant was serving as a driver on the vehicle of Sanjay Tanpure and that there are no antecedents, qua the applicant.

5. Perused the papers. The complainant is one Gunawant Shankar Bandgar. According to the complainant, the incident took place on 26th September, 2015, at about 7.00 p.m. when he was standing near the Hotel of Wanwe. He has stated that his son - Vinod (deceased) alongwith Mahendra Jagtap, Amol @Gorakh Baban Bandgar were chit chatting with

each other. He has stated that Balu Pawar, Bhaiyya Bhosale, Vishal Dhumal, Vaibhav Bandgar were also present with them at the relevant time. According to the complainant, suddenly one Fortuner Vehicle came there and stopped near his son – Vinod. He has stated that Sanjay Tanpure, Manish Tanpure, Pruthvi Tanpure, Sagar Rajput and Sharad Choure (present applicant) got down from the said vehicle. He has stated that suddenly Sanjay Tanpure fired one bullet from his pistol, as a result of which his son – Vinod tried to escape from the said spot. According to the complainant, Sanjay Tanpure chased his son and fired another bullet. Sanjay Tanpure is also alleged to have fired a bullet at Mahendra Jagtap. Thereafter, the accused are alleged to have escaped from the said spot. According to the complainant, he rushed to the spot and saw that Vinod had sustained a bullet injury in his chest, pursuant to which he and others took Vinod to the Nobel Hospital, where he was declared dead. The complainant has further alleged that one Gorakh Bandgar had disclosed to him that there was a quarrel on 25th September, 2015, between Vinod and Sanjay Tanpure's son Pruthvi Tanpure, pursuant to which Vinod was assaulted. A perusal of the statement of Vaibhav Bandgar, an eye-witness to the alleged assault shows, that the accused came in a Fortuner Vehicle, got down from the said

vehicle and went towards Vinod. According to Vaibhav, Sanjay Tanpure questioned Vinod and started abusing him. He has stated that both pushed each other and when they went to resolve the dispute, Sanjay Tanpure pulled out a pistol and fired in the air and that Sagar also fired with his pistol. The eye-witness to the incident have not disclosed any overt act played by the applicant. It appears that even in the 164 statement, no overt act has been attributed to the applicant. It is also not in dispute that the applicant was a driver on the vehicle of Sanjay Tanpure and was in his employment. Mere presence of the applicant at the spot is not sufficient, considering the fact, that the applicant was working as a driver with co-accused – Sanjay. There are no antecedents, qua the applicant.

6. Considering the role of the applicant, *prima facie* it is doubtful whether the applicant would be guilty of the offences with which he is charged. Accordingly, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

- ii) The Applicant shall attend the concerned Police Station, on the first Monday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- 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 trial Court as well as to the concerned Police Station, in writing;
- iv) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- v) The Applicant shall attend the Trial Court on every date of the hearing;
- vi) The Applicant shall co-operate in the conduct of the trial.

7. The Application is allowed and disposed of in above terms.
8. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.
9. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)