

Anand

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

BAIL APPLICATION NO.78 OF 2017

Ponya alias Chandraprakash Sanjay Mali .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.H.A.Mundargi i/b. Mr.Tanveer Khan, Advocate, for the
Applicant

Mr.Rajan Salvi, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 17.04.2017

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.235 of 2016 registered with the Dattawadi Police Station, Pune, for the alleged offences punishable under Sections 302, 326, 323, 504 r/w.34 of the Indian Penal Code.

3. Learned counsel for the Applicant submits that the incident is an outcome of a petty quarrel, which took place while playing cricket. He submitted that in the quarrel, the original accused No.1-Vishal assaulted Nagesh with a cricket bat on his

head. He submitted that as far as the Applicant is concerned, there are no allegations that he assaulted the deceased. He submitted that the only allegation against the Applicant is that he assaulted one of the witnesses on his leg. However, there is no Injury Certificate on record.

4. Learned APP does not dispute the aforesaid fact.

5. Perused the papers.

6. The incident in question took place on 12.06.2016 at around 3.00 p.m. when Nagesh (deceased) had gone with his friends to play cricket. It appears that the Applicant alongwith co-accused Vishal had also been to the said ground and that there was some quarrel that took place regarding placing of stumps on the ground. It appears that a fight ensued between the Applicant and co-accused on the one side and the deceased and others on the other. In the said incident, co-accused Vishal is stated to have assaulted Nagesh with a cricket bat on his head. The complaint is lodged by Nagesh himself. However, Nagesh succumbed to his injuries after almost two months i. e. on 27.08.2016. Admittedly, the Applicant is not alleged to have assaulted the deceased.

There are no antecedents qua the Applicant. Investigation is complete and charge-sheet is filed.

7. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions:-

O R D E R

(i) The Applicant is enlarged on bail, on executing PR Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;

(ii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(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 Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The Applicant to cooperate with the conduct of the trial;

(v) 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.)