

Anand

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

BAIL APPLICATION NO.137 OF 2017

Dada Modak alias Shekhar Anil .Applicant
Modak

Vs.

The State of Maharashtra .Respondent

Mr.A.A.Desai, Advocate, for the Applicant
Mr.Prashant Jadhav, APP, for the Respondent –
State

CORAM : REVATI MOHITE DERE, J.

DATE : 29.06.2017

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.305 of 2014 registered with the Hadapsar Police Station, District – Pune, for the alleged offences punishable under Sections 302, 307, 143, 147, 148, 149, 120B & 153A of the Indian Penal Code.

3. Learned counsel for the Applicant seeks bail on the ground of parity. He submits that similarly placed co-accused Pratik Pandit Sangale, has been enlarged on bail by this Court (CORAM : A.M.BADAR, J.) vide Order dated 23.06.2016 passed in B.A.No.1021 of 2016. He submits that co-accused Pratik Sangale was identified by injured-Amin Haroon Shaikh and Noor Ahmed Dalvi in the identification parade. He submits that there was recovery of a blood stained hockey stick, at the instance of Pratik Sangale. Learned counsel for the Applicant relied on para 8 of the said Order dated 23.06.2016 in support of his submission.

4. Learned APP does not dispute the fact, that the role of the Applicant is similar to that of co-accused – Pratik Sangale, who has been enlarged on bail by this Court vide Order dated 23.06.2016. He also does not dispute the fact, that there are no antecedents qua the

Applicant.

5. Perused the papers as well as the Order dated 23.06.2016. The incident has taken place on 02.06.2014 at about 8.40 p.m.. The Complainant – Shaikh Mobin Mohammed Sadik is the brother of the deceased – Mohsin. According to the Complainant, when his brother – Mohsin was returning home after namaj, 20-25 unknown persons came towards him. The said persons are alleged to have been armed with hockey sticks, bat and stones. The Complainant's brother – Mohsin succumbed to the injuries, pursuant to the said assault. Around the same time, Amin Haroon Shaikh also sustained injuries.

6. As far as the present Applicant is concerned, he is alleged to have been identified by the injured-Amin Haroon Shaikh in the identification parade. The Applicant is also alleged to have been identified by three

witnesses pre and post incident i.e. Suresh Ingale prior to the incident and by P.I.Sunil Pandharkar and API Santosh Gore post the incident. There is recovery of stumps and clothes at the instance of the Applicant. The Applicant has no antecedents. It is not in dispute, that the role of the Applicant is similar to that of co-accused – Pratik Sangale who has been enlarged on bail by this Court vide Order dated 23.06.2016. 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 be enlarged on bail, on executing PR Bond in the sum of **Rs.25,000/-** with one or two sureties in the like amount;
- (ii) The Applicant shall report to the

investigating officer of the concerned police station on the 1st & 3rd **Saturday of every month** between **10.00 a.m. and 11.00 a.m.** 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 shall attend the Court on every date;

(v) 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;

(vi) The Applicant shall file an undertaking with regard to Clauses (ii) to (v) in the trial Court within two weeks of his release;

(vii) The Applicant to cooperate with the

conduct of the trial;

(viii) 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.)