

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

BAIL APPLICATION NO.212 OF 2017

Shri Sujit Devisingh Pardeshi ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Rahul S. Kate for the Applicant
Mr.Rajan Salvi, APP, for Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: MARCH 20, 2017

P.C. :

1. This application is moved by the applicant/accused for bail under section 439 of Criminal Procedure Code as the applicant/accused is facing charges under sections 307, 120B r/w section 34 of the Indian Penal Code in C.R. No.105 of 2014 registered with Yerwada Police Station, Pune. The complaint was registered at the instance of one Anwar Mohammad Pathan on 11.3.2014.

2. It is the case of the prosecution that Anwar Mohammad Pathan was a contractor of mathadi workers and he was earning good amount. So, there was dispute between the

applicant/accused and the co-accused as Anwar Pathan was not giving them work. On 11.3.2014, at around 9 a.m., when Anwar was going to a Gym, he was shot. He got injury on his left hand. When he looked back, he found two persons, one on the motor cycle and the other one had covered his face, who wanted to fire bullet. The people around gathered and escorted him immediately to the hospital. The complainant gave complaint on the same day and the offence was registered initially against unknown persons. The applicant-accused was arrested on 26.1.2016. Hence, this Bail Application.

3. The learned Counsel for the applicant/accused has submitted that at the time of the incident, admittedly, the applicant/accused was in Dubai. He is a permanent resident of Yeola, District Nashik. He left for Dubai on 23.2.2014 and he returned on 26.1.2016. He was arrested at Goa airport by the police. He submitted that there are allegations of conspiracy against the applicant/accused. He pointed out the statements of two witnesses, namely, Adinath @ Butya Kaloba Kamble and Sagar Shreeshail Kale. However, he submitted that these two persons have stated about the grievance the applicant-accused

was having against the complainant nearly two years prior to the incident and the witnesses have referred to the conspiracy and the participation of the applicant/accused which has taken place much prior to the incident. The learned Counsel further submitted that the applicant/accused was having a job in Dubai and was not concerned with this incident.

4. Learned Prosecutor has opposed the application and submitted that the applicant/accused has stolen the motor cycle which was used in the offence and so an offence under section 379 was registered at C.R. No.120 of 2014 at Kherwadi police station. He relied on the statements of two witnesses, who have stated about hatching conspiracy by the applicant/accused. He submitted that the applicant/accused had animus against the injured person on account of work and therefore he is not to be released.

5. Perused the FIR as also the statements of the the witnesses, namely, Adinath @ Butya Kaloba Kamble and Sagar Shreeshail Kale. These two witnesses speak about conspiracy by the applicant/accused and the assailants, who were arrested in the offence. The learned Counsel for the applicant/accused had

pointed out that one of the persons, namely, Sachin Kore, who was also one of the alleged conspirator and who changed the number plate of the motor cycle, was released on bail by this Court vide order dated 16.1.2015 in Bail Application No.2501 of 2014. The applicant/accused was admittedly at the time of the incident out of India. Prima facie, it appears that the incident of conspiracy has taken place much before the incident of actual assault.

6. Considering the evidence before the Court and the period undergone by the applicant/accused in the prison, I allow this Bail Application on the following terms:

- a) The applicant-accused Sujit Devisingh Pardeshi shall be released on bail upon furnishing P.R. Bond in the sum of Rs.40,000/- (Rupees Forty thousand only) with one or two solvent sureties in the like amount.
- b) The applicant-accused shall not tamper with the evidence or pressurise the complainant or the witnesses;
- c) The applicant-accused shall not indulge into any criminal activity and shall attend on all the Court dates;

d) The applicant-accused shall deposit his passport with the Investigating Officer, if not already deposited. The applicant/accused shall not abscond or leave India without prior permission of the trial Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address.

e) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

7. Bail Application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)