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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.222 OF 2017

Dinesh Ramakant Dalavi @ Nana

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Ms. Rohini Wagh for Applicant.

Ms. A.A. Takalkar, APP for State.

Mr. A.P. Bhatkar, PSI, L.T. Marg Police Station present.

CORAM: A.S. GADKARI, J.

DATE: 22 MARCH 2017.

P.C.:

1] This is second application for bail before this Court. The earlier Bail Application preferred by the applicant was dismissed as withdrawn by this Court by an Order dated 21.1.2016.

2] The applicant is an accused in C.R. No.371 of 2014 registered with L.T. Marg Police Station, Mumbai. The learned counsel for the applicant submitted that there are in all six accused persons in the present

crime and out of them five accused persons have been released on bail by the Trial Court, prior to 21.1.2016 i.e. date of Order passed by this Court in Bail Application No.1515 of 2015. She submitted that other accused persons who are similarly situated and attributed with same or similar role have been released on bail and therefore principle of parity is squarely applicable to the applicant also. She further submitted that, either inadvertently or unfortunately orders which were passed prior to the Order dated 21.1.2016 passed by this Court have not been pointed out to this Court at the time of hearing of the Bail Application No.1515 of 2015 and therefore the applicant may be released on bail.

3] The learned APP vehemently opposed the application and submitted that on 21.1.2016 after hearing the learned counsel for the applicant, when this Court was not inclined to grant any relief, the learned counsel for the applicant on instructions sought leave to withdraw the application with liberty to file fresh Bail Application before the Trial Court, if trial pertaining to C.R. No.371 of 2014 does not commence within a period of one year from date of Order dated 21.1.2016. She submitted that as of today the trial has already commenced and the prosecution has examined eight witnesses and there are approximately 12 witnesses more to be examined by the prosecution. She however fairly conceded to the fact

that other accused persons in the present crime who played similar role were released on bail by the Trial Court prior to passing of Order dated 21.1.2016.

4] I have perused the record annexed to the present application. It is revealed that the co-accused namely Nitin Ahwad, Tapan Khara, Bhavesh Shah, Mamu @ Anant Ramchandra Kale, and Kailash Chikhale have been released by the Trial Court, by Orders dated 12.1.2015, 12.1.2015, 19.1.2015, 29.1.2015 and 22.7.2015 respectively. It further reveals from the record that, the co-accused namely Bhavesh Shah and Nitin Ahwad were apprehended on the spot by the police and they have been released on bail by the Trial Court. The role played by the applicant in the present crime is similar to that has been played by the other accused person mentioned hereinabove. As stated earlier, though the aforesaid Orders passed by the Trial Court granting bail to the other co-accused persons prior to 21.1.2016, the same have not been pointed out to this Court on the date of hearing of the Bail Application No.1515 of 2015 on 21.1.2016.

5] In view thereof, I am of the opinion that the principle of parity is squarely applicable to the applicant and the applicant has made out a case for his release on bail.

Hence, the following Order:

- (i) The applicant-Dinesh Ramakant Dalavi @ Nana be released on his executing personal bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount;
- (ii) The applicant/his blood relatives shall file affidavit of applicant's temporary and permanent detail address, supported with documentary evidence and in case the affidavit found false, the deponent will be prosecuted under Section 181 of the Indian Penal Code.
- (iii) The Applicant shall take notice if he threatens any prosecution witness in any manner, so as to dissuade them from coming forward to give true statement about the incident before any Public Authority or Court of Law, in that event he will be prosecuted under Section 195(A) of Indian Penal Code.
- (iv) The Applicant shall take notice that henceforth, if any offence is registered against him, in that event the bail order will be taken for cancellation on verifying allegation appearing in the first information report filed thereto.
- (v) Meanwhile, the applicant be released on his

executing personal bond in the amount of Rs.50,000/- with cash security of Rs.30,000/- and he will have to comply the bail order within four weeks from today without any excuse.

(vi) The Bail Application is allowed in the aforesaid terms.

(vii) All the concerned to act on authenticated copy of this Order.

(A.S. GADKARI,J.)