

Anand

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

BAIL APPLICATION NO.245 OF 2017

Pralin Shyamkant Baviskar (Mali) .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Harshad V. Nimbalkar i/b. Mr.S.H.Nimbalkar, Advocate, for
the Applicant

Mrs.S.S.Kaushik, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 28.04.2017

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.227 of 2016 registered with the Mumbainaka Police Station, Nasik, for the alleged offences punishable under Section 307 of the Indian Penal Code, under Section 3/25 of the Arms Act and under Section 135 of the Bombay Police Act.

3. The incident in question has taken place on 17.08.2016 at about 1.00 p.m. to 1.15 p.m..when Saurabh (juvenile) was being taken from the observation home to the

J.J.Board. It is alleged that the the Applicant fired at Saurabh, with a country made pistol, as a result of which Saurabh sustained an injury on his left upper arm and chest. The Applicant, thereafter, fled from the said spot. The motive alleged by the prosecution is, that as Saurabh(juvenile) had brutally killed the Applicant's son, the Applicant wanted to take revenge of the said murder. It is not in dispute, that the Applicant's son - Mohitesh was brutally murdered by Saurabh (juvenile) and one Kushal in the year 2015. It also appears that after the murder of his son, the Applicant had withdrawn himself from the society and was suffering from depression and mental disorder. It is also not in dispute that the Applicant is being given psychiatric treatment and requires continuous treatment. It is also not in dispute, that in connection with the murder of the Applicant's son, Saurabh (juvenile) was charge-sheeted for the offences punishable under Sections 302, 364A, 384, 201 r/w.34 of the Indian Penal Code and was convicted for the said offences for a period of three years vide Order dated 29.08.2016 passed by the learned Principal Magistrate, J.J.B., Nashik.

4. Learned counsel for the Applicant submits that the Applicant was under depression at the time of the incident after

his son was brutally murdered by Saurabh. He submits that the Applicant's father - Shyamkant Baviskar is ready to look after his son who is suffering from depression and psychiatric problems. Learned counsel has tendered an Affidavit of the Applicant's father - Shyamkant Baviskar. The said Affidavit is taken on record and marked as "X" for identification. In the said Affidavit, the Applicant has undertaken to provide treatment to the Applicant and has undertaken to ensure that the Applicant shall not indulge in any activity which is prejudicial to the safety of the informant, Saurabh and Kushal Prabhu. He has also undertaken not to allow the Applicant to go to Nasik except on the dates fixed for attending the Court. He has stated that either the Applicant or his brother or some close relative will accompany the Applicant, on the dates given by the trial Court. The said undertaking is accepted.

4. Learned APP does not dispute the fact that the Applicant requires psychiatric treatment and is suffering from depression with mental disorder.

5. Considering the peculiar facts of the case, the Application is allowed 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.15,000/- with one or two sureties in the like amount;

(ii) The Applicant shall not enter Nasik city except on the dates given by the trial Court and for the purpose of attending the trial Court, and will be escorted by a relative.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

7. 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.)