

Anand

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

BAIL APPLICATION NO.282 OF 2017

Shewanta Maruti Gaikwad

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr.Nitin Sejpal, Advocate, for the Applicant

Ms Veera Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 08.08.2017

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.334 of 2015 registered with the Nerul Police Station, Navi Mumbai, for the alleged offences punishable under Sections 302, 120B of the Indian Penal Code.

3. Learned counsel for the Applicant submits that admittedly, the Applicant was not present at the spot at the time of the incident. He submits that there is no evidence to show that the Applicant conspired with the other co-accused to kill the deceased – Swapnil.

4. Learned APP does not dispute the fact that the Applicant was not present at the spot.

5. Perused the papers. The incident has taken place on 01.12.2015. Admittedly, the Applicant was not present at the spot, when Swapnil was assaulted by the co-accused. Admittedly, the Applicant knew co-accused – Elahi alias Salman Shaikh and therefore, merely because the Applicant was in touch with co-accused – Elahi alias Salman Shaikh, cannot be said to be an incriminating circumstance qua the Applicant. There is no evidence of conspiracy. The Applicant is in custody since 2015. Investigation is complete and charge-sheet is filed. Considering the material on record and the role of the Applicant, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions:-

ORDER

- (i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs.20,000/-** 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.

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.)