

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 336 OF 2017**

Wasim Nazir Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms. Meghna A. Gowalani for the Applicant

Ms. Rutuja Ambekar, A.P.P for the Respondent-State

API Mr. D. D. Ingale from Ambad Police Station, Nashik, is present.

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 26th APRIL, 2017

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-132 of 2016 registered with the Ambad Police Station, Nashik, for the alleged offences punishable under Sections 307, 395, 386, 506(2), 323, 504, 294, 120B, 109 of the Indian Penal Code and Section 135 of the Bombay Police Act and under Section 3/25, 4/12 of the Arms Act.

3. Learned Counsel for the applicant submits that the complainant-Shubham Bhavsar has not disclosed the name of the applicant in the complaint dated 1st June, 2016 lodged by him. She submitted that only after the applicant was arrested on 1st June, 2016, the complainant has, in his supplementary statement, stated that the applicant was present at the spot. She further submitted that the complainant has attributed specific overt acts to some of the accused and has made general allegations against all the accused including the applicant, that they assaulted him with fist and kick blows. She submitted that charge-sheet is filed and the investigation is complete.

4. Learned A.P.P does not dispute the aforesaid facts.

5. Perused the papers. The incident in question has taken place on 31st May, 2016 at about 3:30 p.m, when complainant-Shubham was proceeding from Rajababu Wine Shop. According to the complainant, co-accused Shakir, Shahid, Ganesh, Mukesh and 4-5 other persons of Tipper gang called him. He has alleged that co-accused Shakir had a pistol in his

hand, Ganya and Mukesh were armed with iron rods and Shahid was holding a sword and that all the accused threatened and demanded extortion money of Rs. 5 lakhs from him. He has further stated that when he expressed his inability to pay the said amount, co-accused Shakir pointed out the pistol towards his left ear and other accused assaulted him by fist and kick blows. He has further alleged that co-accused Ganya and Mukesh assaulted him with iron rods and gave filthy abuses and that co-accused Shahid assaulted him with a sword on his chest. He has further stated that co-accused Shakir snatched a sum of Rs. 7,300/- from him. The complainant has disclosed the applicant's name in the supplementary statement. No specific overt act has been attributed to the applicant and that specific overt acts have been attributed to some of the other co-accused and that there is a general allegation that all the accused assaulted the complainant with fist and kick blows. A perusal of the injury certificate of the complainant-Shubham shows that he has sustained simple injuries i.e. blunt trauma over the chest and abrasion over the chest. There is no recovery against the applicant. Investigation is complete and charge-sheet is filed.

6. Considering the role played by the applicant, the application is allowed and the applicant is enlarged on bail on the following terms and conditions :

ORDER

- (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 attend the concerned Police Station on the first Monday of every month between 10:00 a.m. to 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 inform his latest place of residence and mobile contact number 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;
- (v) The applicant to cooperate with the conduct of the trial;
- (vi) The applicant to file an undertaking with regard to the clauses (ii) to (v), in the trial Court, within two weeks of his release;

(vii) 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.

6. The application 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.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.