

Versus

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 18th 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. 161 of 2016 registered with the Sangvi Police Station, Pune, for the alleged offences punishable under Sections 395, 143, 323, 504, 506 r/w 34 of the Indian Penal Code.
3. Learned Counsel for the applicant seeks bail on the ground of parity. He submits that similarly placed co-accused Madan Mohan

Dhamdere has been enlarged on bail by this Court and two other co-accused have been enlarged by the Sessions Court. He submits that the investigation is complete and charge-sheet is filed.

4. Learned A.P.P submits that the applicant was apprehended on the spot. She, however, does not dispute the fact that all the co-accused have been enlarged on bail.

5. Perused the papers. On 29th May, 2016, Ghanraj Nathuram Aswani, proprietor of Arvind Wine Shop, lodged a complaint alleging therein, that on 27th May, 2016 at about 11:00 p.m, some unknown persons had come to his shop and demanded liquor. The said persons disclosed that they were posted at the Wakad Police Station and were working as Recovery Staff and told the shopkeeper that he could not take the actual price of liquor. The complainant obliged and gave a concession of Rs. 300/. On 28th May, 2016 at 11:00 p.m, three unknown persons again came to the shop and demanded liquor and stated the same thing. According to the complainant, he told them that they would not be given concession again, resulting in a quarrel. The said persons threatened the complainant

and stated that they will see how he opens the shop tomorrow and also assaulted him with fist and kick blows. Thereafter, the said persons called somebody on the cellphone and saw 4 to 5 person coming towards the shop on two wheelers. The complainant could not note the registration number of the motor cycles. The said persons assaulted the complainant's nephew with stones and fist and kick blows and also took Rs. 1,17,000/, which he was carrying home. In the said altercation, they also snatched his golden chain and Nokia cell phone.

6. It appears that there is no recovery at the instance of the applicant. It also appears that in the FIR dated 29th May, 2016, the applicant's presence is not shown at the spot and that his presence was shown only in the supplementary statement, for the first time, on 31st May, 2016. No Identification Parade has been held in the said case. It appears that only on the basis of a CCTV footage, the complainant has identified the accused on the basis of the said CCTV footage. It is pertinent to note that the said CCTV footage does not form part of the charge-sheet. It is not in dispute that co-accused Madan Dhamdere has been enlarged on bail by this Court. The role of the applicant is similar to that of Madan Dhamdere

and other co-accused who are enlarged on bail. There are no antecedents *qua* the applicant.

7. Considering the aforesaid, the applicant deserves to be 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) 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.

8. The application is allowed in the aforesaid terms and is accordingly disposed of.

9. 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.

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

REVATI MOHITE DERE, J.