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

CRIMINAL BAIL APPLICATION NO.604 OF 2017

Mangesh @Prashant Pandurang Chandilkar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.V.V.Ugle, for the Applicant.

Ms.Anamika Malhotra, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 27th JULY, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant seeks his enlargement on bail in connection with C.R.No.198 of 2012 registered with the Paud Police Station, Pune for the alleged offences punishable under Sections 302, 143, 147, 148, 120B of the Indian Penal Code and under Section 4(27) of the Arms Act.

3. Learned Counsel for the applicant seeks bail on the ground of parity as well as on merits. He submits that similarly placed co-accused – Pandurang Baban Chandilkar has been enlarged on bail by this Court (Coram : Mrs.Mridula Bhatkar, J.) vide order dated 24th February, 2017, passed in Criminal Bail Application No.1880 of 2016. He submitted that although, the complainant – Santosh Pandurang Chandilkar, has in the FIR disclosed the name of the applicant as being one of the assailants, in the Supplementary Statement, the complainant has stated that only two persons (not the applicant) assaulted the deceased with sickle. He submitted that the applicant has no antecedents. He submitted that although charge has been framed, till date, trial has not commenced, as two of the accused are absconding.

4. Learned APP opposed the application. She submitted that the applicant is not entitled to bail on the ground of parity as there is no parity with co-accused – Pandurang Baban Chandilkar, who has been enlarged on bail by this Court vide order dated 24th February, 2017. She submitted that the complainant has named the applicant, as being present at the spot. She submitted that apart from the ocular evidence, there is evidence of

conspiracy, qua the applicant and as such there is no parity with the co-accused – Pandurang Chandilkar.

5. Perused the papers. According to the complainant – Santosh, he had gone to visit his cousin – Hanumant Chandilkar, at Pirangut, where he was selling vegetables, on 23rd December, 2012 at about 6.30 p.m. He has alleged that when he was parking his motorcycle, suddenly some people came from behind and started assaulting his cousin – Hanumant. He has mentioned the name of the applicant as well as the names of the co-accused. He has stated that all the accused were armed with koytas and that they assaulted his cousin – Hanumant. Pursuant thereto, Santosh lodged a complaint on 23rd December, 2012 itself, alleging the aforesaid offences. On 24th December, 2012, complainant's supplementary statement was recorded. In the said supplementary statement, the complainant has stated that only two persons i.e. Santosh and Raju assaulted his deceased brother – Hanumant with sickles. He has stated that all the other accused including the applicant had sickles in their hands and were swinging their weapons and shouting “kill him, don't spare him and ensure he is dead”. Apart from the said material, there is a

statement of Jaywant Rajkotdiya on the point of conspiracy. The said witness has stated that on 18th December, 2012, he had seen all the accused i.e. Santosh Chandilkar, Mangesh (present applicant), Mahesh Chandilkar and Ramdas Jadhav alongwith Dattatraya Chandilkar. He has stated that Dattatraya told the said persons i.e. Santosh, Mangesh (applicant), Mahesh and Ramdas, that Laxman was troubling him with respect to a land and therefore, either they should kill Laxman Chandilkar or any of his children. (The deceased Hanumant was Laxman's son). Co-accused- Dattatraya is alleged to have also told the accused, that he would pay them a sum of Rs.1 lakh for the said work and also paid a sum of Rs.1 lakh.

6. *Prima facie*, considering the material on record, this is not a fit case to enlarge the applicant on bail.

7. Hence, the Application for bail is rejected and disposed of as such. The case is of the year 2012. It is informed that 2 of the accused are absconding and that despite the trial having been expedited, no witnesses have been examined till date.

8. Learned APP states that the prosecution will take prompt steps forthwith, to file an appropriate application for separation of the trial, so that the trial of the applicant and other co-accused can proceed. She submits the concerned Prosecutor will file an application within one week from the date of receipt of this order. The said statement is accepted.

9. The learned trial Judge, after separating the trial shall proceed with the case and conclude the same, as expeditiously as possible and preferably within 9 months from the date of receipt of this order.

10. If, for no fault of the applicant, the trial does not conclude within the stipulated period, the applicant is at liberty to file a fresh application seeking his enlargement on bail.

11. Registry to forthwith communicate the above order by fax, to the learned Additional Sessions Judge, Pune, who is seized of the said case,

being Sessions Case No.450 of 2013.

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

(REVATI MOHITE DERE, J.)