

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 744 OF 2017**

Mohammed Lalsab Pitale

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. A. U. Nikam I/b Mr. Aashish Satpute for the Applicant

Mr. S. H. Yadav, A.P.P for the Respondent-State

PSI Mr. Shrikant Patil from Swargate Police Station, Pune City, is present

CORAM : REVATI MOHITE DERE, J.
MONDAY, 3rd JULY, 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. 56 of 2015 registered with the Swargate Police Station, Pune, for the alleged offences punishable under Sections 302, 307, 201 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 Pravin Mukund Shinde and Bablu Lalsab Pitale have been enlarged on bail by this Court vide order dated 23rd September, 2016 and 10th February, 2017 respectively. He submits that the allegations against Bablu Pitale and Pravin Shinde are identical to that of the present applicant.

4. Learned A.P.P does not dispute the said fact. He, however, submits that the applicant is alleged to have called Bablu Pitale to the spot. He further submits that there is recovery of blood-stained clothes at the instance of the applicant.

5. Perused the papers. The incident has taken place on 8th March, 2015. It is alleged by the complainant-Dashrath Kakade that he and Kishor Gaikwad (deceased) had both consumed alcohol and were sitting near a canal and thereafter had come near the office of the Irrigation Department. He has alleged that he met the present applicant, Pravin Shinde and one unknown person, who were also consuming alcohol. He has stated that the

said three persons left the spot, after which, he and Kishor Gaikwad continued to consume alcohol. He has alleged that, at about 6:30 p.m., when they were returning home, all the three persons i.e. the present applicant, Pravin Shinde and an unknown person returned to the spot; and that Kishor Gaikwad is alleged to have left with all the three persons. According to the complainant, all the said persons started quarreling and hence he tried to pacify them and intervened in the quarrel. The applicant is thereafter, alleged to have called his brother Bablu Pitale, who arrived in a Swift Car within ten minutes. Thereafter, a quarrel started between the parties, in which, and that all the said persons are alleged to have assaulted Kishor Gaikwad with fists and kick blows and with stones. In the said incident, the complainant also sustained an injury on his forehead. The first informant called his friends, who came to the spot. On seeing the said persons, all the accused are stated to have fled from the spot. Thereafter, they started searching for Kishor Gaikwad and found his dead body only on the next day, in a canal.

6. The allegations as against the applicant is similar to that of the co-accused Bablu Pitale and Tushar Bhosale. The applicant has been in

custody since 9th March, 2015. Investigation is complete and charge-sheet is filed. There are no bodily related offences against him, as antecedents. Considering the aforesaid, 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. 50,000/- with one or two sureties in the like amount;
- (ii) The applicant shall not enter Pune City, except for attending the Court dates;
- (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 shall cooperate with the conduct of the trial and shall attend the Court on every date of hearing.

(vi) The applicant shall file an undertaking with respect to 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.

7. The application is accordingly disposed of.

8. 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.

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

REVATI MOHITE DERE, J.