

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 949 OF 2017**

Ganesh Chandrakant Kurlap	...Applicant
Versus	
State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION NO. 417 OF 2017
(For Intervention)
IN
CRIMINAL BAIL APPLICATION NO. 949 OF 2017**

Ganesh Jaisingh Mallav & Anr.	...Interveners
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IN THE MATTER BETWEEN :

Ganesh Chandrakant Kurlap	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. Ashok Mundargi, Sr. Counsel with Mr. Satyam H. Nimbalkar a/w
Mr. S. S. Shah for the Applicant

Mr. S. S. Pednekar, A.P.P for the Respondent-State

Mr. Ganesh Bhujbal for the Intervener

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 20th 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. 514 of 2016 registered with the Shirur Police Station, for the alleged offences punishable under Sections 302, 120(B), 109, 143, 147, 148 and 149 of the Indian Penal Code.

3. Learned Senior Counsel for the applicant submitted that the applicant has been falsely implicated in the said case. He submitted that dispute, if any, was between the deceased-Mahendra Mallav and Nilesh @ Nanu Karlap. He further submitted that the statement of some of the witnesses would show, that the applicant was not present at the spot, at the time of the assault on Mahendra Mallav. He further submitted that even the witnesses who have spoken about the conspiracy, have merely stated that the applicant was present at the time and there are no allegations that the applicant exhorted or said anything, in the said meeting.

4. Learned A.P.P does not dispute the fact, that the applicant was not present at the spot, when deceased-Mahendra Mallav was assaulted by four persons. He, however, submits that the statements of Muzaffar Qureshi and Suraj Pithekar show, that the applicant was present when the

conspiracy to kill Mahendra Mallav was hatched. He further submits that there is recovery of blood stained clothes of co-accused, at the instance of the applicant. Learned A.P.P also submits that the applicant has one antecedent of the year 2013 for an offence punishable under Sections 307, 141, 142, 147, 148, etc.

5. Perused the papers. The complainant-Ganesh Kurlap is the nephew of the deceased. He has alleged that at around 2:30 p.m., he heard someone scream and hence, went out of his shop and saw his Uncle Mahendra Mallav (deceased), being assaulted by Pravin Kale and Vishal Kale with sickles (*koyta*). He has alleged that one person by the name-Jadhav also assaulted Mahendra with a sattur on his head. He has stated that apart from the three persons, there was one more unknown person, who was also assaulting the deceased. He has stated that when he raised hue and cry, all the four assailants left the spot, on two Honda Activas. He has stated that he immediately contacted his cousin, Suryakant Chaudhari. According to the complainant, there was a dispute between the deceased-Mahendra Mallav and co-accused Nitesh @ Nanu Kurlap and that on 30th May, 2016, Mahendra (deceased) had opposed the birthday celebrations of

Nitesh @ Nanu Kurlap. He has further alleged, that because of the dispute, Nitesh @ Nanu Kurlap and the applicant sent four persons, to kill Mahendra. Admittedly, the deceased was not present when Mahendra was assaulted, on 28th August, 2016. As far as the statements regarding conspiracy are concerned, i.e. the statement of Suraj Pithekar and Muzaffar Qureshi, the said statements show that all the accused including the applicant had gathered at Hotel Savera. It is alleged by the witnesses, that co-accused Nitesh @ Nanu Kurlap had disclosed in the meeting, that Mahendra Mallav was troubling him, and that he had even objected to his birthday celebrations and hence Mahendra Mallav should be taught a lesson. No specific role has been attributed to the applicant. He is only alleged to have been present at the meeting, at the relevant time. Infact, the FIR dated 30th May, 2016 lodged by the deceased-Mahendra Mallav shows, that the allegations were as against Nitesh @ Nanu Kurlap and Vishal Kale. The applicant is in custody since 1st September, 2016. Investigation is complete and charge-sheet is filed. The applicant has one antecedent i.e. a case pertaining to 2013, wherein, alongwith several others, he has been charged for the offences punishable under Sections 307, 147, 148 and 149.

6. Considering the role of the applicant and the material on record *qua* the applicant, the application is allowed and the applicant is enlarged on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 1,00,000/- with one or two sureties in the like amount;
- (ii) The applicant shall attend the Shikhrapur 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 enter the jurisdiction of Shirur Police Station for a period of six months from the date of his release;
- (iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (v) 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;

(vi) The applicant to cooperate with the conduct of the trial and attend the Court on every date;

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) 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. In view of the above order, intervention application being Criminal Application No. 417 of 2017, also stands disposed of.
10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.