

Anand

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

BAIL APPLICATION NO.1038 OF 2017

1. Sanjay Madhukar Shekhre .Applicants
2. Ramchandra Kalu Lokhande
3. Shubhash Panditrao Gaikwad

Vs.

The State of Maharashtra .Respondent

Mr.Abhishek Yende, Advocate, for the Applicants
Mr.S.H.Yadav, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 14.07.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicants seek their enlargement on bail in connection with C.R.No.I-39 of 2014 registered with the Dindori Police Station, Nashik, for the alleged offences punishable under Sections 395, 396, 397, 302, 109, 143, 147, 148, 149, 427, 504, 324, 323 of the Indian Penal Code and under Section 135 of the Bombay Police Act.

3. Learned counsel for the Applicants after arguing for some

time, does not press this Application qua the Applicant No.3. As far as the Applicant Nos.1 & 2 are concerned, learned counsel for the Applicants submits, that although the Applicant Nos.1 & 2 have been named in the FIR along with other 46 accused, no overt act has been attributed to the Applicants. He also seeks bail on the ground of parity. He submits that similarly placed co-accused have been enlarged on bail by this Court (CORAM : REVATI MOHITE DERE, J.) vide Order dated 29.03.2017 passed in B.A.No.1933 of 2016.

4. Learned APP does not dispute the fact, that the role of the Applicant Nos.1 & 2 is similar to that of other co-accused, who have been enlarged on bail by this Court (CORAM : REVATI MOHITE DERE, J.) vide Order dated 29.03.2017 passed in B.A.No.1933 of 2016.

5. Perused the papers. The incident in question has taken place on 27th March, 2014 at about 8:00 a.m. It is alleged that the accused persons i.e. 49 persons formed an unlawful assembly; went to the hotel of the complainant-Dhananjay Sonawane and committed the murder of the complainant's uncle-Ramesh Sonawane and an employee-Manoj Patil, by assaulting them, with sharp angles and wooden sticks. The accused persons are also alleged to have taken cash from the said

hotel and the petrol pump and also stated to have caused damage to the hotel and its property. There are two eye-witnesses of the said incident i.e. Chintaman Dilip Gaikwad and Padma Chintaman Gaikwad. From a perusal of the statements of both these witnesses, it is evident that both these witnesses have not attributed any overt act to the applicants in the assault on deceased-Ramesh Sonawane and Manoj Patil. No doubt, in a case of unlawful assembly, no overt act is required. However, that is a matter, which will be decided by the trial Court. It also appears that similarly placed co-accused to whom no overt act has been attributed, have been enlarged on bail by the trial Court. There is no recovery against any of the applicants nor do the applicants have any antecedents. Investigation is complete and supplementary charge-sheet is filed.

6. As far as the Applicant No.3 is concerned, the said Application is not pressed qua him. As far as the Applicant Nos.1 & 2 are concerned, the Applicant Nos.1 & 2 are enlarged on bail on the following terms & conditions:-

ORDER

(i) The Applicant Nos.1 & 2 be enlarged on bail, on executing PR Bond in the sum of **Rs.15,000/- each** with one or two sureties in the like amount;

(ii) The Applicant Nos.1 & 2 shall attend the concerned police station on the **first and third Saturday of every month** between **10.00 a.m. to 11.00 a.m.**, till the conclusion of the trial;

(iii) The Applicant Nos.1 & 2 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 Nos.1 & 2 shall inform their latest place of residence and mobile contact number immediately after being released 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 Nos.1 & 2 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 Nos.1 & 2' bail.

7. The Application is partly allowed in the aforesaid terms and 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.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)