

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

BAIL APPLICATION NO. 1056 OF 2017

Maqsood Mehboob Shaikh

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

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Mr. Shailesh Kharat i/b. Mr. S.M. Kalyankar, Advocate for the Applicant.

Mr. M.G. Patil, APP for the Respondent – State.

PSI Lad, R.A.K. Police Station, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : JULY 17, 2017.

P.C. :

This is an application for bail in connection with C.R. No.349 of 2015, registered with RAK Marg Police Station, Mumbai for the offences punishable under Section 307 read with 34 of the IPC. The applicant was arrested on 17th September, 2015. The prosecution case is that the first informant who is the Shakha Pramukh of one political party and he is engaged in rehabilitation of people residing in hutments area. He used to resolve the dispute between the parties. On 1st September, 2015, notice was issued to one resident of transit camp to vacate the premises. Complainant has visited the office of one Sakhare and at that time few people pelted stones on the informant, at the

instance of Sakhare and Vimal Builders. There was demand of money on 16th September, 2015. The informant was sitting in his office along with his colleagues, one person entered in his cabin and two persons were standing outside the cabin. The said person asked Supriya and others to leave as he wanted to speak with the informant. The accused abused the complainant. He informed that he belongs to Chhota Rajan gang. He took out chopper and gave blows on the right thigh and left hand of the informant. He asked the other accused to take out revolver. When he was attempting to take out revolver, in that scuffle the informant fell down from the chair. The accused ran away from the place of incident. The prosecution case is that one of the person was standing outside the office at the time of incident.

2 Learned advocate for the applicant submitted that the applicant is in custody since 17th September, 2015. Investigation is completed and charge-sheet has been filed. He submitted that co-accused has been granted bail by this Court vide order dated 15th March, 2017. It is submitted that Malkappa Koli was the person who assaulted complainant and there was recovery from his. Jogendra Badai and Malkappa Koli has been granted bail. The Court while granting bail to the co-accused considered the

genuineness of the identification parade. Learned advocate for the applicant submitted that in view of the fact that the co-accused have been granted bail, the applicant may also be granted bail on parity. It is also submitted that subsequent to the identification parade no statements were recorded by the investigating machinery in respect to the role assigned to the applicant - accused. It is, therefore, submitted that the applicant may be granted bail.

3 Learned advocate for the applicant and learned APP submitted that there are antecedents against the applicant and three cases were registered against him vide C.R.Nos.174 of 2009, 22 of 2013 and 58 of 2014 whereas the offence registered with Wadala TT Police Station vide C.R.No.168 of 2010. These offences are under Sections 323, 324 and 325 of the IPC.

4 I have considered the material on record. The genuineness of the identification parade has been upheld by the order passed by this Court. The evidence which was used against the applicants is of identification. The co-accused who was similarly placed and was allegedly standing with the applicant has been granted bail by this Court. One of the assailant, the

person who has been attributed the overt-act, has also been granted bail. In view of this, the applicant can be granted bail.

5 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.1056 of 2017 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R.No.349 of 2015 registered with RAK Police Station, Mumbai on furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or more sureties in the like amount;
- (iii) The applicant is restrained from entering the jurisdiction of RAK Marg Police Station, Mumbai;
- (iv) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)