

Anand

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

BAIL APPLICATION NO.1103 OF 2017

Prathmesh Gautam Waghmare

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr.S.K.Gimekar, Advocate, for the Applicant

Mr.V.V.Gangurde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 09.06.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.73 of 2016 registered with the MIDC Bhosari Police Station, District – Pune, for the alleged offence punishable under Section 363 of the Indian Penal Code.

3. Learned counsel for the Applicant seeks bail on the ground of parity. He submits that the role of the Applicant is similar to that of co-accused – Kiran Chandrakant Gaikwad who has been enlarged on bail by this Court

(CORAM : SMT. SADHANA S. JADHAV, J.) vide Order dated 14.12.2016 passed in B.A.No.1759 of 2016. He submits that admittedly, even according to the prosecution, the Applicant was not present at the spot when the deceased - Prathmesh was assaulted by the accused. He submits that the only allegation qua the the Applicant is that he was present when the dead body was thrown in the Bhima river.

4. Learned APP opposes the Application. He submits that although the Applicant was not present at the spot when the deceased - Prathmesh was assaulted, he was present at the spot when the deceased - Prathmesh's dead body was thrown in the Bhima river. He further relied on the statement of Rajendra Gosavi to show that the Applicant was present at the time when conspiracy was hatched to kill Prathmesh. He does not dispute the fact, that there are no antecedents qua the Applicant.

5. Perused the papers.

6. It is not in dispute that co-accused - Kiran Chandrakant Gaikwad has been enlarged on bail by this Court vide Order dated 14.12.2016, as he was not present at the time

when Prathmesh was assaulted. The only allegation even against co-accused Kiran was that he was present at the time when the dead body was thrown in the Bhima river. Nothing has been recovered at the instance of the Applicant. There are no antecedents qua the Applicant. As far as, Rajendra Gosavi's statement is concerned, it shows that the Applicant alongwith others had gone to his house for dinner. He has stated that while having dinner, all of them i. e. Ganesh Saste, Dhiraj Kudale, Taufique Mujawar and their friends i. e. Applicant and Onkar Shinde were talking about Bhayya Pagare (deceased). He has stated that he heard Dhiraj Kudale, Ganesh Saste and & Taufique Mujawar telling Onkar Shinde, that as decided all of them should gather at Gaikwad vasti at 11.00 p.m., call Bhayya Pagare(deceased) and teach him a lesson.

7. Learned APP does not dispute the fact, that there is no material to show that the Applicant was present, when Prathmesh was assaulted.

8. Considering the role of the Applicant and considering the fact that there are no antecedents against the Applicant, the Applicant is enlarged on bail on the following terms &

conditions:-

O R D E R

- (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 attend the concerned Police Station on the **first and third Sunday of every month** between **11:00 a.m. to 12:00 noon** till the conclusion of the trial;
- (iii) The Applicant shall not enter the jurisdiction of **MIDC Bhosari Police Station, Pune** and village **Moshi** till the conclusion of the trial;
- (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 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;
- (vi) The Applicant to cooperate with the conduct of the trial;

(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.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. 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.)