

Anand

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

BAIL APPLICATION NO.1427 OF 2017

Raja Subramaniam Koundar .Applicant

Vs.

The State of Maharashtra & ors. .Respondents

**WITH
CRIMINAL APPLICATION NO.588 OF 2017
(For Intervention)
IN
BAIL APPLICATION NO.1427 OF 2017**

Vinayak Vijaysingh Chauhan .Intervenor

IN THE MATTER BETWEEN

Raja Subramaniam Koundar .Applicant

Vs.

The State of Maharashtra & ors. .Respondents

Mr.M.S.Mohite i/b. Mr.A.P.Ghag, Advocate, for
the Applicant

Mr.S.S.Pednekar, APP, for the Respondent No.1 –
State

Mr.Ganesh Bhujbal, Advocate, for the Intervenor

CORAM : REVATI MOHITE DERE, J.

DATE : 04.07.2017

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.357 of 2015 registered with the Dindoshi Police Station, for the alleged offences punishable under Sections 397, 452, 324, 506(II), 504, 323 of the Indian Penal Code, under Section 4, 27 of the Arms Act and under 37(1) r/w 135 of the Bombay Police Act.

3. Learned counsel for the Applicant submits that with respect to the incident dated 29.06.2015, there are cross cases filed by both sides i. e. present C.R.No.357 of 2015 and C.R.No.359 of 2015 filed from the Applicant's side. He submits that though the Applicant was available from the date of incident, the Applicant was never arrested. He submitted that the Applicant was not absconding and had, in fact, attended the concerned police station when he was summoned. Learned counsel for the Applicant submits that the Applicant has been

falsely implicated in the said case and that with respect to the concerned property, there are Civil disputes pending between the parties.

4. Learned APP submits that as the Dindoshi Police Station were not investigating the said case properly, the said case was transferred to the Vanrai Police Station in November, 2016. He submits that thereafter, the Applicant was arrested on 20.05.2017. He submits that the Applicant is alleged to have assaulted Vinayak Chauhan with a sword. As far as, the other allegations are concerned i.e. snatching of Gold chain etc., the same have not been attributed to the Applicant.

5. Perused the papers. It appears that there is a dispute between co-accused - Arjun Malji Vaijal and Smt. Tulsibai Shankar Vaijal, with respect to the ownership of Vaijal premises, admeasuring 3 acres. The incident is

alleged to have taken place on 29.06.2015 at about 12.30 p.m. It is alleged by the Complainant, that the Applicant had come to the spot alongwith others; that the Applicant was armed with a sword and that the Applicant and other co-accused i. e. Arjun Vaijal, Gautam Singh, Dilawar Khan and three unknown persons assaulted the Security Guards, who were deployed to take of the property. It is alleged that co-accused – Arjun Vaijal with the help of co-accused – Gautam Singh forcibly snatched the Complainant's Gold chain and Gold rings. It appears that with respect to the incident dated 29.03.2015, there is a cross case filed by the Applicant side, as against the Complainant and others and that a charge-sheet has also been filed in the said case. Although the incident has taken place on 29.06.2015, the Applicant was arrested on 20.05.2017. The Injury Certificate of Vinayak Chauhan shows that he has sustained an incised wound and that the injury, is stated

to be simple injury. Apart from the said injury, a scratch was noticed on the forearm. No other injuries were found on the Complainant's person. As far as the injuries of Suraj Singh are concerned, the Injury Certificate shows, that the injuries were simple in nature i.e. multiple scratches on the right forearm, three scratches on the right arm, one scratch on the left forearm and three horizontally parallel scratches on the left forearm. No other external injuries were found. As far as the injuries on Balbir Yadav are concerned, the Injury Certificate shows, that he too had sustained two simple injuries i. e. one scratch on the left forearm & multiple scratches on the left forearm. Admittedly, the Applicant is not the person, who is alleged to have snatched the Gold chain/rings. Nothing has been recovered from the Applicant. It appears that there are Civil disputes between the parties. It also appears that there is a case of 2009 against the

Applicant and 53 other persons in connection with the same property. Learned counsel for the Applicant submits that the Applicant will not enter the Vaijal property, as he is not concerned with the said disputed property. Statement accepted.

6. Be that as it may, in the facts, further detention of the Applicant is not necessary. Accordingly, the Application is allowed and 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.25,000/-** with one or two sureties in the like amount;
- (ii) The Applicant shall report to the investigating officer of the concerned police station on the **first Monday of every month** between **10.00 a.m. and 11.00 a.m.** for a period of one year from the date of his release;

(iii) The Applicant shall not enter the Vaijal property, 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.

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

8. In view of disposal of this Application, Intervention Application, being Cri. Appln.No.588 of 2017 does not survive and the same stands disposed of accordingly.

9. 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.)