

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1790 OF 2017**

1. Nrupesh Rohidas Patil;	
2. Deepak Balaram Patil;	
3. Pravin Kaluram Patil	...Applicants
Versus	
The State of Maharashtra	...Respondent

Mr. M. S. Mohite i/b Mr. Amol A. Patankar for the Applicants

Ms. J. S. Lohokare, A.P.P for the Respondent-State

Mr. Abhishek Yende for the Original Complainant

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 24th AUGUST, 2017

P.C. :

1. Heard learned Counsel for the parties.

2. By this application, the applicants seek their enlargement on bail in connection with C.R. No. I-298 of 2015 registered with the Nerul Police Station, Navi Mumbai, Thane, for the alleged offences punishable under Sections 395, 307, 143, 147, 149, 120(B) and 34 of the Indian Penal Code.

3. Learned Counsel for the applicants submitted that the allegations as against the applicants are false and baseless and that they have been falsely implicated in the said case. He submitted that although the complainant-Makrand Mhatre had disclosed the applicants' names along with other co-accused in the FIR dated 29th October, 2015, the applicants were not arrested by the police. He submitted that the said incident of assault dated 29th October, 2015 which took place at 12:30 p.m., was witnessed by 5 to 6 persons, however, all the said eye-witnesses have disclosed the names of only three persons (not the applicants). He submitted that during the pendency of the investigation, the complainant had filed a Writ Petition in this Court, pursuant to which, the DCB was directed to supervise the investigation. He further submitted that after investigation, charge-sheet was filed only as against 7 persons (not the applicants). He submitted that infact, proceedings were dropped as against the applicants under Section 169 Cr.P.C. He further submitted that thereafter, a protest petition was filed by the complainant, which was allowed by the learned Magistrate. He submitted that against the said order allowing the protest petition, the applicants have filed a Revision Application and the same is pending in this Court. He submitted that in

the course of the proceedings, non-bailable warrants were issued, pursuant to which, the applicants were taken into custody on 27th June, 2017.

4. Learned A.P.P opposed the application. She submitted that all the three applicants have one antecedent each. Learned Counsel for the complainant supported the learned A.P.P.

5. Perused the papers. The incident has taken place on 29th October, 2015 at about 12:30 p.m. Although, the complainant-Makrand Mhatre had disclosed the names of the applicants in the FIR, the allegation was general in nature and that no specific role was assigned to any of the applicants. Although, the incident was witnessed by eye-witnesses, the said witnesses have not disclosed the names of the applicants nor have they stated that the applicants were present at the spot, at the time of the incident. It appears that pursuant thereto, after investigation, proceedings were dropped *qua* the applicants under Section 169 Cr.P.C. Pursuant thereto, a protest petition was filed by the complainant, which was allowed by the learned Magistrate. Pursuant thereto, a protest petition was filed by the complainant, which was allowed. It appears that the said order is under

challenge. It also appears that in the meantime, the learned Magistrate issued a non-bailable warrant, which although was cancelled, the applicants were taken into custody on 27th June, 2017. No doubt, the complainant has named the applicants in the FIR dated 29th October, 2015, however, the allegations are general in nature and no specific role has been assigned to any of them. It is pertinent to note, that none of the other eye-witnesses have disclosed the presence of the applicants at the spot at the time of the incident. It appears that one C.R. was registered as against the applicant Nos. 1 and 2 i.e. Nupesh Patil and Deepak Patil, with the Nerul Police Station in 2006 for the alleged offences punishable under Sections 143, 147, 148, 323, 325, 427 of the IPC and 37(1) and 135 of the Bombay Police Act, and that the same is pending. As far as applicant No. 3-Pravin Patil is concerned, there is one case registered as against him being C.R. No. 264 of 2011, registered with the Kharghar Police Station for the offences punishable under Sections 143, 144, 147, 148, 149, 326 and 427 of the IPC. No doubt, there is an antecedent against each of the applicants but in the peculiar facts of this case, the applicants' continued detention is not warranted.

6. Accordingly, the application is allowed and the applicants are enlarged on bail on the following terms and conditions :

ORDER

- (i) The applicants 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 applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iii) The applicants shall inform their latest places of residence and mobile contact numbers 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;
- (iv) The applicants to cooperate with the conduct of the trial.

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. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.