

Anand

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

BAIL APPLICATION NO.1864 OF 2017

Kunal Manohar Shirke

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr.V.G.Bagade, Advocate, for the Applicant

Ms J.S.Lohokare, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 22.08.2017

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.29 of 2017 registered with the Amboli Police Station, Mumbai, for the alleged offences punishable under Sections 143, 148, 149, 302, 323, 354, 504 r/w 34 of the Indian Penal Code.

3. Learned counsel for the Applicant seeks bail on the ground of parity. He submits that identically placed co-accused – Sunil Manohar Shirke has been enlarged on bail by this Court

(Coram : P.D.Naik, J.) vide Order dated 28.07.2017, passed in B.A.No.1239 of 2017. He submits that the Complainant, who is the wife of the deceased has in the FIR mentioned that it was Kishor Shirke, who stabbed her husband with a knife and in the supplementary statement recorded after almost three months has stated that the Applicant alongwith co-accused – Sunil Shirke took the knife from Kishor Shirke's hand and also assaulted her husband. He submits that even the daughter of the Complainant has in her statement mentioned that it was Kishor Shirke, who assaulted the deceased with knife and subsequently, after three months has also made allegations as against the Applicant and Sunil Shirke.

4. Learned APP does not dispute the fact, that the role of the Applicant is similar to that of co-accused – Sunil Manohar Shirke who has been enlarged on bail by this Court. She also does not dispute the fact, that the Applicant has no antecedents.

5. Perused the papers. The incident has taken place on 31.01.2017. The quarrel was on account of parking the vehicle in the society. It is alleged by the Complainant, that when she noticed that the accused were abusing her husband, she and her daughter went to the

said spot. She has alleged that the accused were assaulting her husband by fist and kick blows. She has alleged that the Applicant picked up a wooden stick lying near the place of the incident and assaulted her husband. She has alleged that thereafter, co-accused – Sunil Shirke called his brother – Kishor Shirke and that Kishor Shirke assaulted her husband with a knife. In the FIR, the Applicant has attributed the knife blow to Kishor Shirke and in the supplementary statement recorded after three months i. e. 27.04.2017, the Complainant has alleged that even the Applicant and Sunil Shirke assaulted the deceased with the knife, after taking it from Kishor Shirke. It is not in dispute, that the role of the Applicant is at par with co-accused – Sunil Shirke, who has been enlarged on bail by this Court (Coram : P.D.Naik, J.) vide Order dated 28.07.2017, passed in B.A.No.1239 of 2017. The Applicant has no antecedents. Investigation is complete and charge-sheet is filed.

6. Considering the aforesaid, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions:-

ORDER

- (i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs.30,000/-** 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 **1st Saturday of every month** between **10.00 a.m. to 12.00 noon** till the conclusion of the trial;

(iii) The Applicant 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 to cooperate in the conduct of the trial.

7. The Application is 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.)