

Anand

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

BAIL APPLICATION NO.1752 OF 2016

Umesh Vilas Jawanjale

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mrs.Uma Kshirsagar i/b. Mr.Milind Sawant, Advocate, for the
Applicant

Mrs.S.S.Kaushik, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 19.06.2017

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.I-139 of 2014 registered with the Kamothe Police Station, Navi Mumbai, for the alleged offences punishable under Sections 302, 341, 120B r/w.34 of the Indian Penal Code, under Section 7(27) of the Arms Act and under Section 135 of the Bombay Police Act.

3. Learned counsel for the Applicant seeks bail on the ground of parity. She submits that similarly placed co-accused – Kiran Kanase and Akash Pawar have been enlarged on bail by

this Court vide Orders dated 30.09.2015 & 16.03.2015 respectively. She submits that there is nothing on record to show that the Applicant was present at the spot, at the time of the alleged incident. She submitted that there is no recovery at the instance of the Applicant. She further submitted that the only allegation against the Applicant is that he conducted a reeve of the spot along with Kiran Kanase, Akash Pawar and two others on 15.07.2014. She submitted that although there are two antecedents qua the Applicant, (one U/s. 302 of the IPC and one U/s. 324 of the IPC) in the 302 case, the Applicant was granted bail, as there was no material to connect the Applicant with that offence.

4. Learned APP opposes the Application.

5. Perused the papers, including the Orders dated 30.09.2015 & 16.03.2015, by which co-accused - Kiran Kanase and Akash Pawar were enlarged on bail. Admittedly, there is no recovery at the instance of the Applicant. Learned APP has not been able to show, that the Applicant was present at the spot, at the time of the alleged incident. She relied on the CDR records, but was unable to show that the Applicant was present at the spot at the relevant time. According to the learned APP, the

Applicant was informing the co-accused of the victims arrival at the spot. The incident has taken place at Kamothe, whereas, the present Applicant was present in a different sector and at times at Nerul. As far as antecedents are concerned, the Applicant was enlarged on bail in a case of Section 302 of the IPC in 2012 as there was no material to connect the Applicant with the alleged offence. Even otherwise, the Applicant is entitled to bail on the ground of parity. 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:-

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 report to the investigating officer of the concerned Police Station on the **first & third Saturday of every month** between **11:00 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 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;

(v) The Applicant shall not enter the jurisdiction of Kamothe Police Station, except for the purpose of attending the trial Court;

(vi) The Applicant shall file his undertaking with regard to Clauses (ii) to (v) within two weeks of his release in the trial Court;

(vii) The applicant to cooperate with the conduct of the trial and attend the trial Court on every date of the hearing;

(viii) 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. 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.)