

Anand

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

BAIL APPLICATION NO.1999 OF 2016

Tushar Subhash Kalane

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr.Satyavrat Joshi, Advocate, for the Applicant

Mr.Rajan Salvi, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 17.04.2017

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.150 of 2013 registered with the Dattawadi Police Station, Pune for the alleged offences punishable under Sections 302, 143, 147, 148, 149, and 120B of the Indian Penal Code r/w. Sections 3(25) & 4(25) of the Arms Act and Sections 37(1) r/w.135 of the Maharashtra Police Act.

3. Learned counsel for the Applicant states that no overt act has been attributed to the Applicant. He submits that it is co-accused Jitendra Gupte and Kiran Gaikwad, who are alleged

to have assaulted the deceased with weapons. He submits that co-accused Balasaheb Ghule, Ajay Sabale, Kunal Pardeshi and Devidas Yenpure have been enlarged on bail.

4. Learned APP opposes the Bail Application. He submits that eye witness Mahesh alias Mahendra Kailas Shinde has specifically named the Applicant. He submitted that the said eye witness in his statement, has disclosed the Applicant's name and has stated that the Applicant was armed with a Koyta. He submits that there is a statement of one, Hire which shows that after the incident, the Applicant had sent him to pick up the Rickshaw from the said spot, though the Rickshaw belonged to the Applicant. He submits that there is an antecedent qua the Applicant, being C.R.No.655 of 2012 registered for the offence punishable under Section 324 r/w.34 of the Indian Penal Code.

5. Perused the papers.

6. The incident in question has taken place on 04.07.2013 and the FIR has also been lodged on the very same day. The Applicant was arrested on 06.07.2013 and the Test Identification Parade was held on 05.10.2013. Although, the Applicant has not been identified in the Test Identification

Parade, one of the eye witness i.e. Mahesh alias Mahendra Kailas Shinde has specifically named the Applicant as being present at the spot and armed with a weapon i. e. Koyta. The Applicant appears to be the owner of the Rickshaw which was recovered at his instance. The said Rickshaw was left by the Applicant at the spot of the incident, and had asked his friend-Hire to pick up same from the spot. There is no parity with the co-accused who have been enlarged on bail. Apart from the aforesaid, there is an antecedent against the Applicant.

7. Considering the aforesaid, this is not a fit case to enlarge the Applicant on bail. Accordingly, the Application stands rejected. Since the incident is of 2013, the trial of the Applicant is expedited.

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.

(REVATI MOHITE DERE, J.)