

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

BAIL APPLICATION NO.2450 OF 2016

Vinayak Anil Padasalgi

.... Applicant

versus

The State of Maharashtra

... Respondent

Mr.A.P. Mundergi, Senior Advocate i/b. Subir Sarkar, Advocate for the Applicant.

Mr.S.S. Pednekar, APP for the State/Respondent.

CORAM : MRS.MRIDULA BHATKAR, J.

DATE : 06th JANUARY, 2017.

P.C. :

1. In this bail application applicant accused is prosecuted for the offences punishable under section 307, 143, 147, 148, 149, 129-B of IPC and under section 3(25) and (27) of the Indian Arms Act in C.R.No.147/16 registered at Shikrapur Police Station, Pune. One Sagar Sunil Varpe gave information to the police about the incident of assault which took place on 20/06/2016. The accused No.1 Rajendra Sudam Darekar and his brother Yuvraj Sudam Darekar were having business rivalry with the injured Santosh @ Pintu Rabhaji Darekar and Vikram Darekar. Both were in the

business of scrap material. On 20/06/2016 in the evening around 08.30 p.m. when injured Santosh @ Pintu Rabhaji Darekar alongwith his friends was chitchatting and standing on the road, the applicant/accused alongwith co-accused Satish Prabhakar Waghmare arrived on the motorcycle and Satish Waghmare fired through Pistol at Santosh @ Pintu Darekar. Pintu sustained injuries on his neck and he fell down. He was shifted to hospital and was given treatment. The complainant gave information to police. An offence was initially registered against Yuvraj Darekar, Rajendra Darekar, Satish Waghmare, present applicant/accused and one Uddhav Anjaba Gite.

2. It is the case of prosecution that Rajendra Darekar had purchased Pitstol from Uddhav Gite and sold out to Satish Waghmare as a part of the conspiracy to eliminate Satish @ Pintu Darekar. Subsequently police filed report under section 169 of Cr.P.C. in favour of Yuvraj Darekar and he was arrested by the police. The chargesheet was filed on 16/09/2016. The applicant/accused was arrested on 23/06/2016. Hence this bail application.

3. The learned counsel has submitted that report under section 169 of Cr.P.C. was filed by police in favour of Yuvraj Darekar. So also Rajendra Darekar. The accused No.1 is released on bail by this Court. He argued that the applicant/accused was not the one who actually fired on the injured. He submitted that though there are two eyewitnesses, the role of applicant/accused is not of a shooter even as per their statements.

4. The learned prosecutor opposed bail application and relied on the statements of the eyewitnesses, so also test identification parade. He has submitted that accused alongwith co-accused since 14/06/2016 to 15/06/2016 followed them and kept watch. This shows that they have conspired and intended to kill the accused person who had suffered injury on the neck i.e. the vital part and are facing charges under section 307 and 120-B of IPC.

5. Perused the FIR, the statements of eyewitnesses i.e. Santosh @ Pintu Rabhaji Darekar, Vikram Darekar, Sandip Sanjay

Mote. The case of the prosecution and the statements of the witnesses even if accepted as it is, the role of the applicant/accused is consistent and specific that he accompanied the shooter at the time of incident. As per case of prosecution Rajendra Darekar was having direct enmity with the injured. However, Rajendra Darekar is on bail. The applicant/accused was not the actual shooter. The chargesheet is filed on 16/09/2016. The injured is discharged from hospital after two weeks. On query it is informed by the learned prosecutor that he does not have criminal antecedents like offence against human body. Hence I am inclined to allow application on the following terms and conditions:

ORDER

- (i) Application is allowed.
- (ii) The applicant/accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.40,000/- with one or two sureties in the like amount.
- (iii) The applicant shall not contact, threaten or harass the complainant in any manner.

- (iv) The applicant shall not indulge in any criminal activity especially against the human body.
- (v) The applicant shall attend all the Court dates.
- (vi) The applicant shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address.
- (vii) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

6. The application stands disposed of on above terms.

(MRIDULA BHATKAR, J.)