

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. 783 OF 2016

Major Ramesh Shivaji Upadhyay. ..Appellant.

Versus

State of Maharashtra & Another. ..Respondents.

Mr. Sudeep Pasbola, Mr. Bhavesh Thakur i/b Mr. Rahul Arote for the Appellant.

Mrs. P. P. Shinde, APP for the State of Maharashtra.

Mr. Sandesh D. Patil for NIA.

Coram : Ranjit More &
Smt. S. S. Jadhav, JJ.

Date : **September 26, 2017.**

P. C. :

1. Heard Mr. Pasbola, the learned Counsel for the Appellant, Mr. Sandesh Patil, the learned Counsel for the NIA. The Appellant is seeking bail in CR. No.130 of 2008 registered with Azad Nagar Police Station, Malegaon for the offence punishable under section 302, 307, 326, 324, 427, 153A and 120B of the Indian Penal Code, 1860 and sections 3, 4, 5 and 6 of the Explosive Substances Act and section 3, 5 and 25 of the Arms Act 1959.

2. The Appellant is original accused No. 4. One Lt. Colonel Prasad Purohit was original accused no.9 in the said case. So far as the Appellant is concerned, allegations are that he was one of the members of Abhinav Bharat organisation. He attended the meetings

at various places in which the idea was propagated to form a Hindu-Rashtra "Aryavrat". Similar allegations were made against Lt. Colonel Purohit – original accused no.9.

. Mr. Pasbola, learned Counsel for the Appellant asserted and Mr. Patil, learned Counsel for the NIA does not dispute that the role attributed to the present Appellant is lesser than the role attributed to Lt. Colonel Purohit – original accused No. 9.

3. The criminal appeal filed by Lt. Colonel Purohit for bail in the said CR before this High Court was rejected. He approached the Supreme Court by filing Criminal Appeal No. 1448 of 2017. The Supreme Court by its order dated 21st August 2017 released Lt. Colonel Purohit on bail in the said CR on certain conditions.

4. In above circumstances, in our considered view the Appellant is entitled for bail in the subject CR by virtue of doctrine of parity. The appeal is accordingly allowed. The impugned order is quashed and set aside.

-: O R D E R :-

- (i) The Appellant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 1 lakh with two or more sureties of like amount to the

satisfaction of the trial Court.

(ii) The Appellant shall be released on cash bail of Rs. 1 lakh forthwith. The Appellant shall furnish two or more sureties within a period of four weeks from the date of his release.

(iii) The Appellant shall surrender his passport before the Special Court within one week from the date of his release.

(iv) The Appellant shall not leave India without previous permission of the Special Court.

(v) The Appellant shall appear before the Special Court, Malegaon, once in six months as directed by the Special Court. Upon failure to attend on any two consecutive dates, the prosecution is at liberty to file an application seeking cancellation / recalling of this order.

(vi) The Appellant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade that person from disclosing such facts before the Court or the Investigating Agency or any other agency.

(vii) The Appellant shall not tamper with evidence.

5. Appeal stands disposed of.

[Smt. S. S. JADHAV, J.]

[RANJIT MORE, J.]