

Anand

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

BAIL APPLICATION NO. 54 OF 2018

Somnath Baburao Chikne .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. K. S. Patil, Advocate, for the Applicant

Mrs. P. P. Shinde, APP, for the Respondent – State

Mr. M. T. Gosavi, Police Naik, Kamothe Police Station, Navi
Mumbai

CORAM : REVATI MOHITE DERE, J.

DATE : 11.12.2018

(IN CHAMBER)

P.C.

. Heard learned counsel for the parties.

2. This is the second Bail Application. The first Bail Application preferred by the Applicant was rejected by this Court (Coram : Revati Mohite Dere, J.) vide Order dated 25.04.2016 passed in B. A. No. 2504 of 2015. The said Application was rejected on merits considering the material on record qua the Applicant.

3. By this Application, the Applicant seeks bail on the ground of change of circumstance. Learned counsel for the Applicant submits that after the Applicant's Application for bail was rejected on 25.04.2016, co-accused – Umesh Vilas Jawanjal was enlarged on bail by this Court (Coram : Revati Mohite Dere, J.) vide Order dated 19.06.2017 passed in B. A. No. 1752 of 2016. He submits that the role of the Applicant is at par with co-accused - Umesh Jawanjal. He submits that in fact, Umesh Vilas Jawanjal is the main conspirator in the said case.

4. Learned APP opposes the Application. She submits that the role of the Applicant is not similar to that of co-accused - Umesh Jawanjal who has been enlarged on bail by this Court.

5. Perused the papers. The Applicant's first Bail Application, being B. A. No. 2504 of 2015 was rejected by this Court (Coram : Revati Mohite Dere, J.) vide Order dated 25.04.2016. The allegation as against the Applicant is that he assaulted the deceased – Ankush Raghunath Mhaskar with

vastara. There is recovery of blood stained clothes at the instance of the Applicant. The C. A. Report shows that the blood found on the clothes of the Applicant was human blood. It also appears that there are CDR records which show that the Applicant was in touch with Vikas and Mukesh a few days prior to incident, when recce of the location was done as well as on the date and time of the incident, when the alleged incident took place. As far as parity with Umesh Jawanjal is concerned, it may be noted that there is no recovery at the instance of Umesh Jawanjal and the CDR records also do not show that the Applicant was present at the spot at the relevant time. Hence, there is no parity with Umesh Jawanjal. It is informed that the trial has commenced, inasmuch as, charge has been framed as against the Accused and that the matter is posted for issuance of witness summons. It is also pertinent to note that there are six antecedents qua the Applicant.

i. e. (i) C. R. No. 65 of 2007 for the alleged offence punishable under Section 324 r/w 34 of the Indian Penal Code;

(ii) C. R. No. 248 of 2007 for the alleged offence punishable under Section 324 r/w 34 of the Indian Penal Code;

(iii) C. R. No. 1 of 2008 for the alleged offences punishable under

Sections 307, 323 r/w 34 of the Indian Penal Code;

(iv) C. R. No. 8 of 2012 for the alleged offences punishable under Sections 326, 504 r/w 34 of the Indian Penal Code;

(v) C. R. No. 299 of 2013 for the alleged offence punishable under Section 385 r/w 34 of the Indian Penal Code &

(vi) C. R. No. 38 of 2014 for the alleged offences punishable under Sections 363, 324, 342, 347, 506, 504 r/w 34 of the Indian Penal Code.

6. Considering the aforesaid, there is no change of circumstance warranting grant of bail to the Applicant. The Applicant is in custody since 4 and ½ years. Considering the same, the learned Judge to expedite the trial of the Applicant and conclude the case as expeditiously as possible and in any event, by September, 2019.

7. The Bail Application, accordingly, stands rejected.

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.)