

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

BAIL APPLICATION NO.2811 OF 2017

Ram Dashrath Mane Applicant
Vs.
The State of Maharashtra Respondent

**ALONGWITH
CRIMINAL APPLICATION NO. 129 OF 2018**

Mr. Sonu @ Yogesh Dnyaneshwar Intervener
Walunj

In the matter between

Ram Dashrath Mane Applicant
Vs.
The State of Maharashtra Respondent

Mr. Sudeep Pasbola i/by Mr. Rahul Arote for the Applicant.
Mr. N.B. Patil, APP for the State of Maharashtra.

Mr. Paras Yadav for Intervener.

***Coram : Smt. Sadhana S. Jadhav, J.
Date : 16th February, 2018***

P.C.:

1 Heard the learned counsel for the applicant and the
learned APP. Perused the papers of investigation.

2 This is an application under section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 6th August, 2015 in crime No.200 of 2015 registered at Vadgaon Mawal Police Station, for offences punishable under Sections 302, 120 (B), 143, 147, 148, 149 of Indian Penal Code and Section 3 r/w 25 & 27 of the Indian Arms Act.

3 It is the case of the prosecution that one Mangesh @ Bunty Dnyaneshwar Walunj was prosecuted for offence punishable under Section 302 of the Indian Penal Code for having committed homicidal death of one Bharat Shinde. Hence, both families were on logger heads. It appears that Mangesh was acquitted of the said offence in the year 2015. On 4th August, 2015, elections to Grampanchayat Kamshet was held. People had gathered at the polling centre. Mangesh along with his associates was visiting all the polling booths.

4 On 4th August 2015 itself, Sonu @ Yogesh Dnyaneshwar Walunj brother of Mangesh lodged a report at the police station that on 4th August, 2015, at about 11.00 am., he along with his brothers and other associates had reached the polling booth. They were standing at the parking place. When Mangesh was about to board the car about 12.00 noon, he was suddenly surrounded by Shekhar

Shinde, Raju Shinde, Ram Mane, Dhanesh @ Chocolate Dilip Shinde, Abhimanyu Shinde, Balu Shinde and Hrushinath Vithal Shinde. At that time. Shekhar Shinde was armed with a revolver, similarly Balu Shinde was also armed with revolver. That Shekhar had fired at Mangesh. When Mangesh was in the process of rescuing himself, accused had followed him and once again shot at him. He was declared dead when he was taken to the hospital. It is a matter of record that name of the present applicant is not reflected in the F.I.R.

5 On the same day, in the evening, supplementary statement of first informant was recorded in which he alleged that at the time of the incident, the present applicant along with some others were present at the scene of offence. On this basis, applicant was arrested on 6th August, 2015.

6 This Court, by the order dated 17th October, 2016 has enlarged on bail the accused Mukesh @ Mukanda Hiranman Shinde. The role attributed to the present applicant is the same role which was attributed to Mukesh Shinde. Thereafter the accused Akshay Sanjay Shinde to whom the same role was attributed was enlarged on bail by this Court (Coram: Mrs. Mridula Bhatkar, J.) vide order dated 3rd February 2017. The accused Dhanesh @ Chocolate Dilip Shinde was enlarged on bail vide order dated 31st October, 2017 by this Court (Coram : A.S. Gakkari, J.). The role attributed to the

present applicant is that on the polling day, the applicant was at the polling booth to participate in the elections of Kamshet Gram Panchayat. It is alleged that the applicant alongwith the co-accused had encircled the deceased Mangesh @ Bunt Dnyaneshwar Walunj, when suddenly Shekhar Shinde had shot on Mangesh with revolver.

7 The post mortem notes showed that the deceased Mangesh had sustained one bullet injury, the wound of entry was over left side of abdomen and it had passed through left lateral side anteriorly passing downwards and backwards towards right side. The deceased had sustained three abrasions.

8 Apparently there was some scuffle at the polling booth. It cannot be said that the applicant had shared the common object with Shekhar Shinde and with Balu Shinde. Hence, the applicant deserves to be enlarged on bail. In any case, by virtue of doctrine of parity, the applicant deserves to be enlarged on bail.

9 Learned counsel for the intervener has drawn attention of this Court to the order dated 11th January 2018 passed by this Court (Coram: A.M. Badar J.), while rejecting the application of Abhimanyu @ Khandu Prakash Shinde and Sonu @ Yogesh Dnyaneshwar Walunj, wherein they have been denied bail although co-accused were released on bail.

10 Taking into consideration the fact that most of the co-accused who shared the same role that of the applicant have been enlarged on bail, this Court is of the opinion that the applicant also deserves to be enlarged on bail.

11 The observations made hereinabove are restricted to the application under Section 439 Code of Criminal Procedure and shall not be taken into consideration for the purpose of quashing of F.I.R., discharge application or at the time of trial. Hence, the order :

ORDER

1 The application is allowed.

2 The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.

3 The applicant shall not reside at Kamshet till conclusion of the trial.

4 The Intervention Application No.129 of 2018 is heard, allowed and disposed of.

(Smt. Sadhana S. Jadhav, J)