

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

BAIL APPLICATION NO.541 OF 2018

Shri. Nagraj Vishnu Patil Applicant
 Vs.
The State of Maharashtra Respondent

Mr. Niranjan Mundargi I/by Mr. Kunal D. Ambulkar for the
Applicant.
Ms. P.P. Shinde, APP for the State.

Coram : Smt. Sadhana S. Jadhav, J.
Date : 1st November, 2018

P.C.:

1 Heard the learned counsel for the applicant and the
learned APP.

2 This is a subsequent application seeking enlargement on
bail. On 10th February 2017, the application was dismissed as
withdrawn, when this Court had shown inclination to refuse grant of
bail. The present application was also dismissed for want of
prosecution and subsequently restored. At that time, a submission

was made on instructions that the Charge is framed, however, the learned counsel for the applicant fairly submits that till today the Charge is not framed. The applicant is charge-sheeted in Crime No. 74 of 2015 registered at Mumbra Police Station, District Thane, for the offences punishable under Sections 302, 120-B, 143, 144, 147, 148, 149 of Indian Penal Code, under Sections 3 and 25 of Indian Arms Act and under Sections 37(1)(3) read with 135 of Maharashtra Police Act.

3 It is the case of the prosecution that on 19th January 2015, one Waman Patil lodged a report at the police station alleging therein that on 19th January 2015, at about 9.30 am. his son Sandip had left the house to go to his office at Diva. Soon after Sandip had left the house, the complainant- Waman Patil had also left the house alongwith his married daughter. When they were passing through the temple, they had noticed that the present applicant, his brother Kedar and 7 to 8 others were brutally assaulting Sandip with chopper and other weapons. He had then noticed Kedar firing at Sandip with revolver. He had shot two rounds. He had called for

help. On the basis of his report, crime was registered at Mumbra Police Station. On 22nd January 2015 a supplementary statement of complainant was recorded and he had disclosed that in fact it was Nagraj Patil, who had fired at his son Sandip and Kedar and others had assaulted him with chopper. In any case, the complainant is an eye witness. He had stated in his supplementary statement that he was in a shop when he saw the incident and therefore had attributed the role to Kedar in a state of confusion.

4 The investigation was set in motion. It is pertinent to note that prior to recording of the supplementary statement, on the very next day of the incident i.e. on 20th January 2018, the investigating agency had recorded the statement of Aryan Gulabchand Jaiswal, who was an eye witness and was in the company of the deceased at the time of the incident. He has disclosed to the police that he has seen the present applicant firing at Sandip Patil. He had shot two rounds. It is disclosed that thereafter Kedar and two other unknown persons had assaulted Sandip with

chopper and other weapons. This is the case of direct evidence. No case is made out for grant of bail.

5 It is in these circumstances, the applicant does not deserve to be enlarged on bail. The application being sans-merits stands rejected.

6 The observations are prima facie in nature and shall not be considered for discharge application or at the time of trial.

(Smt. Sadhana S. Jadhav, J)