

Sarnobat

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

CRIMINAL BAIL APPLICATION NO. 905 OF 2018

Ajay Yuvraj Botre	.. Applicant.
Vs.	
The State of Maharashtra.	.. Respondent.

Ms.Pranali Kakade i/by Hulyalkar and Associates, for the Applicant.
Mr.S.R. Agarkar, APP for the respondent.
Mr.Girish Namdev Chamle, PSI, Bhosari Police Station, Pune.

CORAM : P. N. DESHMUKH, J.

DATE : 16th APRIL, 2018.

P. C. :

1. This application is for bail by one of the accused involved in Crime No. 559/2017 registered under Section 307,143, 144, 147, 148, 149 r.w. 34 of IPC., under Section 3(25)(27) of Arms Act and under Section 37(1)(3) r.w. 135 of Maharashtra Police Act.

2. Heard learned counsel for applicant and learned APP. It is submitted on behalf of the applicant that except for presence of applicant on the spot, no overt act is attributed to him in the alleged assault which took place on 22nd December, 2017 as alleged by complainant wherein co-accused Pankaj Phuge is injured by co-accused and has thus contended that since applicant was present only on the spot he cannot be attributed as alleged intention to commit the

offence and has prayed that as charge-sheet is filed, application be allowed on imposing suitable conditions as applicant is student and on the date of incident was studying in 11th standard in Arts and Commerce College, Pune.

3. Perusal of report reveals that on 22nd December, 2017 there was some incident of quarrel between Ajinkya Mane and co-accused Pankaj Phuge in some Mall at Bhosari where Pankaj is alleged to have extended threats to Ajinkya. This fact was informed by Ajinkya to complainant Suraj Phuge who thus contacted Pankaj Phuge on phone and informed that he should forget the incident took place between him and Ajinkya . However, Pankaj said that he would teach a lesson to Ajinkya.

4. In the background of above facts when complainant along with his friends namely Mangesh Vasve, Vaibhav Valunj, Vaibhav Naikare, Sagar Shevte, Yogesh Aarude and Shailesh Mane were present at about 3.30 pm. these persons arrived near them on two motorcycles. All of them were identified by complainant being from the said locality. It is further contended that co-accused Pankaj after alighting from the motorcycle all of a sudden ran towards Ajinkya when co-accused Banty pointed out one Pistol towards Ajinkya which was caught hold by complainant and directed Ajinkya to run away from the spot. When Ajinkya started running Pankaj Phuge followed him when co-

accused Banty pushed complainant and fired one shot towards Ajinkya which however, hit to Pankaj on the left side of his back. Considering contents of report as aforesaid, the only involvement of applicant in the present crime is of his remaining present on the spot. In that view of the matter, nothing can be attributed to applicant to fire Ajinkya.

5. Learned APP makes a statement that statement of all the friends who were present at the spot named above are similar to the contents of report.

6. According to the injury report, Pankaj is stated to have sustained gun shot on the left posterior line about 1 cm. in diameter.

7. Having considering limited evidence as aforesaid against the applicant and as applicant is about 18 years old studying in 11th standard, application is liable to be allowed by imposing suitable conditions as per order below;

ORDER

(i) Applicant shall be released on bail in Crime No. 559/2017 registered with Bhosari Police Station, Pune on his executing P.R. bond in the suit of Rs. 20,000/- with one surety in the like amount.

(ii) While on bail applicant shall mark his presence with Bhosari Police Station, Pune on the 1st day of each month initially for period of Six months and

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thereafter, quarterly on the first day of each such month.

[P. N. DESHMUKH , J.]