

Anand

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

BAIL APPLICATION NO. 932 OF 2017

Bhushan Anil Bhoir .Applicant

Vs.

The State of Maharashtra .Respondent

**WITH
CRIMINAL APPLICATION NO. 391 OF 2017
(For Intervention)
IN
BAIL APPLICATION NO. 932 OF 2017**

Navin Kumar Gupta .Intervenor

IN THE MATTER BETWEEN

Bhushan Anil Bhoir .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. P. G. Sawant, Advocate, for the Applicant
Mrs. J. S. Lohokare, APP, for the Respondent – State
Mr. R. N. Kumar a/w. Mr. S. Chaurasia, Advocate, for the Intervenor

CORAM : REVATI MOHITE DERE, J.

DATE : 03.05.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 127 of 2016 registered with the Kalachowki Police Station, for the alleged offences punishable under Sections 307, 341, 427, 120B r/w 34 of the Indian Penal Code; under Section 4, 27 of the Arms Act r/w. Section 37(1)(a), 135 of the Bombay Police Act.

3. Learned counsel for the Applicant seeks bail on the ground of parity. He submits that co-accused – Deepak alias Dipa Subhash Chaurasiya and Vijay Krishna Chinnaswamy, alleged assailants were enlarged on bail by this Court (Coram : Prakash D. Naik, J.) vide Order dated 07.07.2017 passed in B. A. No. 307 of 2017 & B. A. No. 454 of 2017 respectively. He submitted that in fact, the Applicant stands on a better footing than the aforesaid co-accused who have been enlarged on bail.

4. Learned APP does not dispute the fact that there is parity with co-accused – Deepak and Vijay. She, however, submits that the Applicant was absconding for four months prior to his arrest and there is one case registered as against him for the alleged offence punishable under Section 324 with the Wadala T. T. Police Station in 2016.

5. Perused the papers. According to the Complainant – Dr. Navinkumar Binayak Gupta, he was proceeding in his car when his car was stopped by the accused. According to the Complainant, one of the accused gave a chopper blow on the car window (front), as a result of which the glass of the window broke, after which the accused assaulted him with a chopper on his wrist and shoulder. The Complainant sustained a CLW injury over his right shoulder, on his right forearm and on the right hand. It appears that a nurse (an eye witness) was travelling with the Complainant at the relevant time when the incident took place. Pursuant thereto, the Complainant lodged the aforesaid complaint as against four unknown persons. The Complainant has alleged that the said incident had taken place, at the instance of one builder namely Sanjay Vira. During the course of investigation, the Applicant was arrested. Admittedly, the Applicant was not amongst the four persons who allegedly assaulted / blocked the Complainant. According to the prosecution, the Applicant was following the Complainant's car and was disclosing the Complainant's whereabouts to the co-accused. It appears that since the Applicant was following the Complainant's car, the eye witnesses had not seen the Applicant and therefore, Test Identification Parade was not held. There is recovery of a motor cycle allegedly used in the said crime, at the instance of the

Applicant. It is pertinent to note that co-accused - Deepak and Vijay who allegedly assaulted the Complainant have been enlarged on bail by this Court (Coram : P. D. Naik, J.) vide Order dated 07.07.2017. No doubt, there is an antecedent i. e. an offence under Section 324 of the Indian Penal Code as against the Applicant, however, the Applicant has been released on bail in the said case. Investigation is complete & charge-sheet is filed. The Applicant is in custody since 30.10.2016.

6. Learned counsel for the Intervenor opposed the Application. He submitted that the Applicant is the master mind of the incident, inasmuch as he was following the Complainant's car and was guiding the other co-accused. He further submits that the Applicant was absconding for four months.

7. Having regard to the role of the Applicant in the present case, the Application is allowed and the Applicant is enlarged on bail on the following terms & conditions :-

ORDER

(i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs. 50,000/-** with one or two local solvent sureties in the like amount;

- (ii) The Applicant shall report to the investigating officer of the concerned police station on the **first and third Monday of every month** between **10:00 a. m. and 11:00 a. m.**, until further orders;
- (iii) The Applicant shall not enter the jurisdiction of the Kala Chowki Police Station till the conclusion of the trial, except for the purpose of attending the concerned police station and shall leave the said jurisdiction forthwith after marking his attendance until further orders;
- (iv) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (v) The Applicant shall not leave Mumbai & Thane City without the prior permission of the trial Court;
- (vi) The Applicant to cooperate in the conduct of the trial;
- (vii) The Applicant shall file an undertaking with regard to clauses (ii) to (vi), in the trial Court, within two weeks of his release;
- (viii) If there are two consecutive defaults in appearing before the trial Court or appearing before the investigating officer of the concerned police station or if there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail;

(ix) Since the further investigation is in progress, the Applicant shall also attend the concerned police station as & when called for by the investigating officer.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. In view of disposal of the Application, the Intervention Application, being Cri. Appln. No. 391 of 2017 does not survive and same stands disposed of accordingly.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)