

nsc.

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

CRIMINAL BAIL APPLICATION NO.1188 OF 2018

Nitin Nago Shelke	...Applicant
Versus	
The State of Maharashtra	...Respondent

***WITH
CRIMINAL APPLICATION NO.879 OF 2018
(FOR INTERVENTION)
IN
CRIMINAL BAIL APPLICATION NO.1188 OF 2018***

Ranjana Krushna Patil	...Intervener/First Informant
-----------------------	-------------------------------

IN THE MATTER BETWEEN

Nitin Nago Shelke	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr.Rohan P. Surve, for the Applicant.

Mrs. P.P.Shinde, A.P.P for the Respondent-State.

Mr.P.G.Sarda, for the Intervener/First Informant.

***CORAM : REVATI MOHITE DERE, J.
DATE : 19th JULY, 2018
(IN CHAMBERS)***

P.C. :

1. Heard learned counsel for the parties.

2. This is the third bail application preferred by the applicant. The first bail application of the applicant was rejected on merits by this Court (Coram:Revati Mohite Dere, J.) vide order dated 29th June, 2016, passed in Bail Application No.477 of 2016. The second bail application of the applicant was withdrawn after arguing for some time, by the very same Court vide order dated 21st March, 2017 passed in Criminal Bail Application No.406 of 2017.

3. By this application, the Applicant again seeks his enlargement on bail in connection with C.R.No.I-218 of 2015 registered with the Bhiwandi Taluka Police Station, Thane, for the alleged offences punishable under Sections 302, 307, 326, 341, 120B, 143, 147, 148, 149, 504, 506 of the Indian Penal Code and under Sections 4 and 27 of the Arms Act.

4. Learned Counsel for the applicant seeks bail on the ground of parity as well as on merits. He submitted that identically placed co-accused - Pandharinath Mhatre and Ashok Mhatre, who are also alleged to have assaulted Manik Patil (injured) with wooden logs have been granted Anticipatory Bail by this Court vide order dated 7th January, 2016. He

submitted that none of the other injured witnesses i.e. Bajrang Patil, Manohar Patil, Dilip Patil and Vishwas Patil in their statements which were recorded on 5th/8th September, 2015 have named the Applicant, as being present at the spot. He submitted that for the first time i.e. on 15th September, 2015, Manik Patil (injured) has in his statement disclosed the name of the applicant, after which, other injured witnesses have named the Applicant in their supplementary statements. He further submits that the applicant has no antecedents.

5. Learned APP opposes the application. She, however, does not dispute the fact, that co-accused - Pandharinath Mhatre and Ashok Mhatre are identically placed as the present Applicant. She also does not dispute the fact, that the applicant has no antecedents.

6. Learned Counsel for the Intervener/First Informant, Mr.Sarda opposes the application. He submitted that no interference was warranted in the earlier order rejecting the applicant's application for bail.

7. Perused the papers. The applicant's first bail application was

rejected by this Court vide order dated 29th June, 2016, passed in Bail Application No.477 of 2016 and the second bail application of the applicant was withdrawn after arguing for some time and the same is recorded in the order dated 21st March, 2017 passed in Criminal Bail Application No.406 of 2017. According to the prosecution, in the incident which took place on 4th September, 2015, Krishna Patil was assaulted by the accused as a result of which he succumbed to the injuries and expired. In the said incident Manik, Bajrang Patil, Manohar Patil, Dilip Patil and Vishwas Patil also sustained injuries. It is pertinent to note, that the injured - Bajrang Patil, Manohar Patil, Dilip Patil and Vishwas Patil in their statements dated 5th September, 2015 and 8th September, 2015, have not disclosed the presence of the applicant at the spot when they were assaulted by the accused. Neither, one Nanda Patil, a close relative of the victim has disclosed the name of the applicant as being present at the spot or of having assaulted any of the injured, much less Manik. Infact, a perusal of Nanda Patil's statement shows that she has specifically named the persons i.e. the co-accused who have assaulted Manik Patil, Bajrang Patil, and others and that the applicant's name does not appear in her statement. It appears that for the first time on 15th September, 2015, when Manik regained

consciousness and was in a position to give his statement that he disclosed the name of the applicant as being one amongst the other persons who assaulted him. A perusal of the Manik's statement shows that he was assaulted by Sharad Patil and Sadanand with a scythe and by Pandharinath Mhatre, Ashok Mhatre and the present Applicant with wooden logs. It is pertinent to note that co-accused - Sharad, has been enlarged on bail and that co-accused - Pandharinath Mhatre and Ashok Mhatre have been granted Anticipatory Bail. Thus, identically placed co-accused - Pandharinath Mhatre and Ashok Mhatre have been granted Anticipatory Bail. The applicant has no antecedents.

8. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or two local solvent sureties in the like amount;
- ii) The Applicant shall attend the concerned Police Station, on the first

Saturday of every month, between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;

iii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

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 co-operate in the conduct of the trial and shall attend the Court on every date given by the trial Court;

(vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the Applicant, in the trial Court, within two week's of his release;

(vii) It is made clear, that if there is breach of any of the conditions as

stated above, the prosecution shall be at liberty to seek cancellation of Applicant's bail.

9. The Application is allowed and disposed of in above terms.

10. It is made clear, that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein, as expeditiously as possible.

11. In view of the aforesaid, the Intervention Application being Criminal Application No.879 of 2018 does not survive and the same is also disposed of.

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

(REVATI MOHITE DERE, J.)