

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

CRIMINAL BAIL APPLICATION NO.1577 OF 2017

Ajay @ Krishnachand Jagdish Pandey ... Applicant.

Versus

The State of Maharashtra & Anr. ... Respondents.

Mr. Prashant G. Pandey, Advocate for the Applicant.

Mr. S. S.Hulke, APP for the State.

Mr. R. D. Suryavanshi, Advocate for the Intervener - Sandhya Praful Patil.

PSI V. M. Takke, Navghar Police Station, Thane -Rural, is present.

Mr. M.G. Waghmare, API, Thane is present.

CORAM : REVATI MOHITE DERE, J.

DATE : MARCH 07, 2018

P.C.

1 Heard learned counsel for the parties.

2 By this application, the Applicant seeks his enlargement on bail in connection with C.R. No. 58 of 2010 registered with the Navghar Police Station, Thane -Rural, for the alleged offences, punishable under sections 302 & 120(B) r/w.

Section 34 of the Indian Penal Code and under Sections 3, 4, 25 of the Arms Act.

3 Learned counsel for the Applicant submits that the Applicant has been falsely implicated in the said case. He submits that the Applicant is in custody for almost 8 years and till date only 7 witnesses have been examined. He submits that co-accused - Vishal Chandrakant Mhatre has been enlarged on bail by the learned Additional Sessions Judge, Sessions Court Gr. Bombay vide order dated 04.11.2011. He further submitted that the recovery of motor-cycle at the instance of the applicant is doubtful, inasmuch as, the police failed to trace details of the ownership of the vehicle i.e. motor-cycle. He submits that although the NC was filed but the same was subsequently dropped and the same has been confirmed before the Apex Court.

4 Learned counsel also tendered a compilation of documents and relied on the G.R. of the Government of Maharashtra dated 15.03.2010, regarding guidelines for

premature release under the “14 Years Rule” of prisoners serving life sentence, in particular on Category No.4 of Annexure-I thereto. He submits that some of the panch witnesses have turned hostile in the said case.

5 Learned APP opposed the application. He submits that there is ample evidence against the applicant and that no interference is warranted at this stage, more particularly since the trial has commenced, and 7 witnesses have been examined so far. On instructions, the learned APP states that the Commissioner of Police, Thane as well as the Jail Superintendent, Thane will make every endeavour to ensure that the Applicant and the other co-accused in the said case are produced before the learned Trial Judge on every date, given by the court.

6 Perused the papers. According to the Complainant – Amol Kashinath Patil, his elder brother-Praful Kashinath Patil was assaulted by two unknown persons; that one of the persons assaulted his brother with a chopper and the other unknown

person used a fire-arm / pistol. According to the complainant, his brother was attacked by Vishal C. Mhatre, Milan Narayan Patil, Yashwant G. Patil and other assailants. As far as the Applicant is concerned, he is alleged to have fired at deceased-Praful from his pistol and there is recovery of a fire-arm at his instance. The applicant has been identified by three persons in the test identification parade, as being the assailant. There is recovery of blood-stained clothes at the instance of the applicant. The C.A. Report shows that the blood group found on the clothes of the applicant is that of the deceased - Praful. The ballistic report also supports the prosecution case. There is also recovery of four live cartridges, photo of the deceased as well as motor-cycle at the instance of the applicant.

8 Considering the prima facie material against the Applicant, this is not a fit case to enlarge the Applicant on bail. It appears that charge was framed in August, 2016 and till date only seven witnesses have been examined. Learned APP, on instructions, states that about 50 odd witnesses are yet to be

examined. It appears that the applicant and the co-accused are not being produced before the Trial Judge, resulting in further delaying the trial. Learned APP on telephonic instructions from the Commissioner of Police, Thane as well as the Superintendent of Jail, Thane Central Jail states that the said authorities will take all steps to ensure that the Applicant and the other co-accused are produced before the Trial Court on every date, given by the learned trial Judge. Statement accepted. Learned Judge to take appropriate steps, if the accused are not produced.

9 Accordingly, the application is disposed of. Trial of the applicant is expedited. Learned Judge shall endeavour to complete the trial as expeditiously as possible and in any event within 16 months from the date of the receipt of this order.

10 Learned Judge shall endeavour to conduct the case preferably on day-to-day basis.

All concerned to act on the authenticated copy of this order, duly issued by the Registry of this court.

(REVATI MOHITE DERE, J.)