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

CRIMINAL BAIL APPLICATION NO.2357 OF 2016

Pravin Pundalik Patil

...Applicant

Versus

State of Maharashtra

...Respondent

Mr.A.P.Mundargi, Senior Counsel a/w Mr.V.P.Patil, for the Applicant.

Ms.J.S.Lohokare, A.P.P for the Respondent-State.

PSI-P. Thete, ACP Office, Ulhasnagar.

CORAM : REVATI MOHITE DERE, J.

DATE : 5th APRIL, 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.I-229 of 2015 registered with the Ulhasnagar Police Station, for the alleged offences punishable under Sections 302, 386, 201, 120(B), 212 r/w 34 of the Indian Penal Code, under Sections 3(25), 7(27) of the Arms Act and under Sections 3 (1)(i), 3(2) and 3(4) of Maharashtra Control of Organized Crime Act.

3. Perused the charge-sheet. The complainant-Ashok Karira lodged a complaint/FIR on 11th September, 2015, as against two unknown persons. It is alleged by the complainant that when he had come to his office at 11.30 a.m., his brother-Sacchanand@Sacchu was in his office. He has stated that about 3.30 p.m., he had gone out for some work and that he received a call from his office, within some time, disclosing that two unknown persons had come to his office on a motorcycle and had fired on Sacchanand@Sacchu. Sacchanand@Sacchu was taken initially to Central Hospital and thereafter to Fortis Hospital, Kalyan, where he succumbed to his injury. Pursuant thereto, the aforesaid complaint/FIR was lodged by the complainant-Ashok Karira. During investigation, it was revealed that Nitin Aaughade was involved alongwith two other persons in the said incident. Thereafter, several other accused, including the applicant came to be arrested. Admittedly, it is not the prosecution case, that the applicant was amongst the three persons, who fired at the deceased-Sacchanand@Sacchu in his office or that the applicant was present at the spot. According to the prosecution, certain amount i.e. Rs.5,000/- was deposited by one of the accused in the account of the applicant and Rs.25,000/- in the applicant's mother's account. It is also alleged by the prosecution that the applicant was

associated with the arrested members of the gang. As far as the CDR records are concerned, it is alleged that the applicant was in touch with the co-accused – Vijay Phakade, however, the CDR records does not show that the applicant was in touch, either on the date when the alleged incident was committed or immediately prior or after the incident. Neither the tower location of the CDR records show the presence of the applicant at or near the spot. No doubt, the applicant has antecedents, however, that by itself cannot be a ground to deny bail to the applicant. *Prima-facie*, there are no reasonable grounds to conclude that the applicant is guilty of the offences with which he is charged, considering the aforesaid material on record, qua him.

4. 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 more local solvent sureties in the like amount;

- ii) The Applicant shall attend the concerned Police Station, on the first Sunday 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/contact the complainant, witnesses or any person concerned with the case;
- v) The Applicant shall deposit his passport, if any, with the concerned Investigating Officer;
- vi) The Applicant shall co-operate in the conduct of the trial;
- vii) An undertaking to the aforesaid clauses (ii) to (vi), shall be filed by

the Applicant, in the trial Court, within two week's of his release;

viii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

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

6. 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.

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

(REVATI MOHITE DERE, J.)