

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 672 OF 2017**

Gangadhar Janardan Mhatre	...Applicant
Versus	
Kishan Govind Patil & Ors.	...Respondents

Mr. Nitesh P. Vyas for the Applicant

Mr. M. S. Mohite a/w Mr. S. R. Panse for the Respondent Nos. 1 to 7

Ms. Rutuja Ambekar, A.P.P for the Respondent No.8-State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 25th APRIL, 2018

P.C.

1. Heard learned Counsel for the parties.

2. At the outset, learned counsel for the applicant does not press his application for cancellation of the respondent Nos. 1 to 7s' bail, considering the fact, that the witnesses and the applicant/original complainant, who are allegedly being threatened from deposing in the said case, are being given police protection. He, however, submits that liberty be granted to the applicant to prefer a fresh application for cancellation of bail, if the need so arise, in future.

3. It appears that the applicant/original complainant has been fighting the said case for the last 30 years. The case is of the year 1987. Although, learned counsel for the respondent Nos. 1 to 7 refutes the allegation that the said respondents have threatened any of the witness, what cannot be ignored is the fact, that two of the witnesses have turned hostile in the case, for whatever reason.

4. The trial has already been expedited earlier vide order dated 21st September 2016, however, it appears that only two witnesses have been examined till date i.e. witness Nos. 1 and 10. It appears that witness Nos. 3 and 7 have expired and two witnesses have turned hostile. According to the learned counsel for the applicant, about 19 to 20 more witnesses have to be examined. Learned counsel submits that the witnesses, because of the fear of the respondent Nos.1 to 7, will not be able to freely depose as against them.

5. Learned counsel for the respondent Nos. 1 to 7 admits that after the respondent Nos. 1 to 7 were arraigned as accused, they have not

filed fresh application seeking their enlargement on bail. Learned counsel for the applicant as well as the learned A.P.P state that they will not oppose the application for bail, if preferred, as it is a mere formality. The respondent Nos. 1 to 7 to file a fresh application seeking their enlargement on bail. The said application shall be decided forthwith by the learned Judge. All parties agree that the trial should conclude expeditiously and that all will cooperate with the expeditious disposal of the case.

6. In the peculiar facts and circumstances of the case, the following order is passed :

ORDER

(i) The witnesses Nos. 1-Gangadhar Janardan Mhatre, 2-Martand Ganpat Pache, 4-Ratnakar Korga Shetty, 5-Narendra Ramchandra Churi, 6-Ramesh Narayan Jadhav, 9-Abdul Sattar Abdul Gani Ansari, 10-Bhiva Janardan Mhatre, 11-Prabhakar Damodar Mhatre and 12-Giridhar Ramchandra Mhatre, be granted police protection. Accordingly, the Superintendent of Police, Palghar to provide full time protection to the aforesaid persons, commencing from Friday, 27th April 2018. The said protection shall be given to the said

witnesses till the deposition of all the witnesses in the said case, is over.

(ii) The respondent Nos. 1 to 7 shall not enter the jurisdiction of Waliv Police Station, till the conclusion of the trial, except for the purpose of attending the Court on the dates given by the Court.

(iii) The respondent Nos. 1 to 7 shall not tamper with the evidence or attempt to influence, threaten, intimidate or contact the complainant, witnesses or any person concerned with the case.

(iv) The learned Judge shall conduct the case on day-to-day basis and conclude the trial as expeditiously as possible and in any event, within three months from the date of receipt of this order.

(v) No parties shall seek any adjournment so as to enable the learned Judge to proceed with the case on day-to-day basis.

(vi) If respondent Nos. 1 to 7 file a fresh application seeking their

enlargement on bail, the same be decided forthwith by the learned Judge.

7. The application is disposed of in the aforesaid terms with liberty to the applicant to prefer a fresh application for cancellation of bail, if the need so arise, in future.

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

REVATI MOHITE DERE, J.