

Anand

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

BAIL APPLICATION NO. 366 OF 2019

Zeeshan Afsar Sayyed

.Applicant

Vs.

The State of Maharashtra

.Respondent

Ms Priyanka K. Dubey, Advocate, for the Applicant

Mr. P. H. Gaikwad-Patil, APP, for the Respondent – State

Mr. Jaydip Jadhav, PSI, Byculla Police Station, Mumbai present

CORAM : REVATI MOHITE DERE, J.

DATE : 05.08.2019

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.146 of 2018 registered with the Byculla Police Station, Mumbai, for the alleged offences punishable under Sections 302, 324, 323, 143, 144, 147, 148, 149, 504 and 506 of the Indian Penal Code and under Sections 37(1) (a) and 135 of Maharashtra Police Act.
3. Perused the papers. According to the complainant – Pratik Padwal, he alongwith Bhavesh Koli (deceased), Rajesh Jadhav, Sumeet

Nagvekar and Bhavesh's uncle – Devji, were working for a Municipal Contractor, who was allotted a parking spot, under the 'Pay and Park Scheme' of the Municipal Corporation of Greater Mumbai. The complainant has alleged that he and his associates were given the responsibility of helping in parking of the cars and issuance of parking receipts. He has alleged that four young boys from the vicinity used to drive two Yamaha RX 100 motorcycles in a rash and negligent manner, whilst passing from the parking area. According to the complainant, when he was on duty, he asked the said boys not to drive the motorcycles in a dangerous manner, however, the said boys would laugh and taunt him and his associates. The complainant has alleged that on 1st July, 2018, when he was on duty along with his associates at about 1.30 p.m., four boys came there on motorcycles, cut across him and sped away after blurting something to him. The complainant has alleged that at 5.00 p.m. when the boys again returned on their motorcycle, he and his associates asked them to stop the motorcycles but they sped, took a 'U' turn and came towards the complainant and his associates in a high speed and threatened and abused them. Thereafter, within 5 to 10 minutes, the said boys are again stated to have come back with 3 of their associates. The complainant has alleged that the said persons assaulted him and his associates with a leather belt

and fist and kick blows. He has further alleged that one of the 3 accused assaulted Bhavesh, with a knife on the right side of his chest, as a result of which, Bhavesh collapsed. According to the complainant, when he and his associates went towards Bhavesh, they also threatened them with a knife and rushed towards them with a leather belt and due to the commotion, the accused fled from the spot. Bhavesh who was lying in an unconscious condition was taken to the hospital, who expired during the course of the treatment.

4. It appears from the papers of the investigation that the Applicant has been identified in the identification parade by some of the witnesses. Though, it is alleged by the prosecution, that the Applicant assaulted the deceased with belt, fist and kick blows, no specific role has been ascribed by the witnesses to the Applicant. It is the prosecution case that Anas Sayyed (brother of the Applicant) assaulted the deceased with the knife on his chest. Similarly placed co-accused Talha Barmare has been released on bail. The Applicant has no antecedents. It is not in dispute that some of the co-accused, who are similarly placed have been enlarged on bail by this Court. The Applicant will also file an undertaking stating therein, that he will not indulge in any kind of criminal activity in future and that he will not

change his residence. Learned counsel for the Applicant submits that the Applicant also undertakes to co-operate in the conduct of the trial and to abide by the conditions imposed by this Court.

5. Having regard to the aforesaid, 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 furnishing P. R. Bond in the sum of **Rs.25,000/-** with one or two 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/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 trial Court on every date of hearing, unless exempted by the trial Court;

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

(vii) 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.

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

7. 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.

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

(REVATI MOHITE DERE, J.)