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

CRIMINAL BAIL APPLICATION NO.783 OF 2019

Sachin Sitaram Ghodvinde

...Applicant

Versus

State of Maharashtra and Anr.

...Respondents

Mr.M.S.Mohite I/b Mr.V.K.Rathod and Mr.A.A. Sontakke, for the Applicant.

Mr.A.R.Kapadnis, A.P.P for the Respondent No.1 - State.

Mr.Arun Rajput, for the Respondent No.2.

Police Sub-Inspector – S.S.Chaudhari, Padgha Police Station, Thane Rural, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 25th JULY, 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.I-254 of 2018 registered with the Padgha Police Station, Thane, for the alleged offences punishable under Sections 307, 341, 504, 120B of the Indian Penal Code and under Sections 3(25) of

the Arms Act.

3. Perused the papers. The applicant along with accused nos.13 to 17 and the complainant were partners in a construction business. It appears that there was some dispute between the complainant on one hand and the applicant and co-accused nos.13 to 17, on the other, pursuant to which, they separated. According to the complainant, the incident took place on 20th October, 2018, at about 10.15 p.m, when he was travelling in his car. The complainant has alleged that whilst he was travelling a red Qualis went ahead and stopped his car. He has stated that two persons were sitting on the front side and three persons on the rear seat. He has further stated that one person from the front seat got down from the red Qualis and that the said person had a pistol in his hand. The complainant has stated that as he raised hue and cry, his relatives, i.e Vilas Bhoir, Kapil Dalvi and Kunal Dalvi came there on their motorcycles, pursuant to which, the Qualis vehicle left the spot and went towards Khadvali river. It is alleged that the relatives of the complainant chased the Qualis and tried to stop it, however, the person sitting on the front seat of the Qualis threatened them by showing them a firearm and drove the vehicle towards

Khadwali. It is alleged that one person along with a pillion rider on the motorcycle followed the said Qualis vehicle and that the said motorcycle did not have a number plate. It is alleged that when the complainant shouted at the persons who were riding the motorcycle to stop, the motorcycle took a right turn and went towards Village Vandre. The complainant is stated to have chased the said motorcycle for about 1 km and as there was no place to escape, the persons on the motorcycle stopped the motorcycle and fled. According to the complainant, when he stepped out from his car and went towards the said two persons, the said two persons fired 4 to 5 rounds in his direction. It is stated that the people from Vandre village gathered at the spot, pursuant to which the said two persons fled from the spot and left the motorcycle near the forest. Thereafter, the complainant informed the police, who reached the spot. Accordingly the complainant lodged an FIR as against the applicant and others. Admittedly, the applicant was not amongst the persons present in the Qualis or on the motorcycle. Admittedly, neither the complainant or any person have sustained injuries in the said incident. As far as the applicant is concerned, he is alleged to have conspired alongwith other co-accused to kill the complainant. The CDR records collected by the police show that few calls were made by the

applicant to his employee i.e. accused no.4 – Gautam and few calls to his partner. *Prima facie*, the said calls cannot be said to be incriminating. In the house search of the applicant, one empty mobile box of Samsung Guru mobile bearing IMEI No.351916-10-0325 23-4, was seized, however no mobile was recovered during investigation and no CDR pertaining to the aforesaid IMEI Number is produced to show that the same was used in the offence. Similarly, empty packing of an Airtel Sim Card bearing No.8855335042 handwritten by pen on the said packing was also seized. The CDR of the said mobile number does not show that the said SIM Card was used in the offence. Similarly an empty packing of Vodafone Sim Card bearing no.7066428494, was also seized from the applicant's house, however, no details of ownership of this number or CDR of its use in the offence, have been produced by the prosecution. There are statements of the hotel owner - Arjindal Dhariwal, which only shows that the applicant visited the hotel with an unknown person i.e. accused no.6. from Kolhapur. Nobody has heard of any conspiracy to kill the complainant. Similarly, the statement of Raju Shaikh, *prima facie* cannot be said to be incriminating. The applicant has 4 antecedents, out of which in 2 cases he has been acquitted.

4. Considering the overall material as against the applicant, 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/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 Applicants, 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 or breach of any of the conditions as stated above, 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.