

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1820 OF 2019**

Mohd. Mohiddin Shaikh @
Mohd. Takka
Versus
The State of Maharashtra

...Applicant

...Respondent

Mr. Rajay Y. Gaikwad for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondent-State

PSI Mr. Dilip Tayade from Manpada Police Station, Dombivali (East),
Thane City, is present

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 10th OCTOBER 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-645 of 2016 registered with the Manpada Police Station, Dombivali, Thane, for the alleged offences punishable under Sections 302, 120B, 201 r/w 34 of the Indian Penal Code; under Sections 3, 25 of the Arms Act and under Sections 37(1), 135 of the Maharashtra Police Act.

3 Learned counsel for the applicant seeks bail on the ground of parity. He submits that identically placed co-accused-Nagesh Pandurang Sonawale has been released on bail by this Court (Coram : Revati Mohite Dere, J.) vide order dated 3rd April 2019 passed in Criminal Bail Application no. 306 of 2018.

4 Learned A.P.P does not dispute the fact that the role of the applicant is similar to that of co-accused-Nagesh Sonawale.

5 Perused the charge-sheet. According to the prosecution, all the accused had conspired to kill the complainant-Amit Patil and pursuant to the said conspiracy, some of the accused had gone near the complainant's house on 21st December, 2016 at about 2:15 p.m. and had shot Vicky @ Vicky Omprakash Sharma (complainant's friend), who was standing behind the car, thinking that the said Vicky was the complainant. Admittedly, the applicant is not the assailant nor is it the prosecution case, that the applicant was present at the spot, when Vicky was fired at. No motive is also alleged as against the applicant. The only allegation as against the applicant is, that he was in touch on his mobile with the assailants prior to the incident

and at the time of the incident. There is no recovery of any incriminating article at the instance of the applicant. Similarly placed co-accused Nagesh Sonawale has been enlarged on bail.

6 Considering the aforesaid, the application is allowed on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- with one or two 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 not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

- (iv) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the

Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial;

(vi) The applicant shall file an undertaking in the trial Court with regard to clauses (ii) to (v), within two weeks of his release;

(vii) If there are two consecutive defaults in appearing before the trial Court or in reporting to the Investigating Officer and if there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

7 The application is disposed of in the aforesaid terms.

8 It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.