

Anand

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

**BAIL APPLICATION NO. 2066 OF 2019**

Vijay Gangadin Gautam

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr. Karan Mertia i/b. Mr. Tanveer Farooqui, Advocate, for the  
Applicant

Mr. S. V. Gavand, APP, for the Respondent – State

**CORAM : REVATI MOHITE DERE, J.**

**DATE : 23.09.2019**

**P.C.**

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 702 of 2018 registered with the Kurar Police Station, Mumbai, for the alleged offences punishable under Sections 394, 395, 397 r/w 34 of the Indian Penal Code and under Sections 4 & 25 of the Arms Act.

3. Perused the papers. According to the prosecution, the incident took place on 22.12.2018 at about 4.00 a. m., when the Complainant – a bus conductor was going to attend his duty. It is alleged by the Complainant that when he reached Trimurti Chawal near

a public toilet, Kurar, an Auto Rickshaw stopped near him and four unknown persons got down from the said Rickshaw. It is alleged that one person put his hand in the Complainant's pocket, he retaliated, pursuant to which the other accused started assaulting him. It is alleged that one unknown person snatched the Complainant's cell phone and one unknown person stabbed him in his stomach. According to the prosecution, the Applicant is alleged to have assaulted the Complainant with a knife. It appears that the Complainant is stated to have sustained an injury on the lower side of the abdomen. Learned counsel for the Applicant states that the Applicant has not been identified in the identification parade held. It is not in dispute that the Applicant has not been identified by the Complainant in the identification parade that was held. The Applicant has tendered an Affidavit-in-reply. The same is taken on record and marked as "X" for identification. In the said Affidavit, the Applicant has undertaken not to commit a similar offence or any wrongful act causing disturbance and breach of peace to the deceased. He has also undertaken not to contact the Complainant or any other witness concerned with the said case.

4. Having regard to the aforesaid and in particular, the Affidavit filed by the Applicant, 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 executing P. R. Bond in the sum of **Rs. 15,000/-** with one or two local sureties in the like amount;
- (ii) The Applicant shall report to the investigating officer of the concerned police station on the **first Saturday of every month** between **10.00 a. m. and 1.00 p. m.** for a period of 24 months from the date of his release;
- (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 immediately after being released 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 shall not commit a similar offence in the immediate near future;
- (vi) The Applicant to co-operate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;
- (vii) The Applicant shall file an undertaking with regard to Clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) If there are two consecutive defaults either in attending the police station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

5. The Application is allowed in the aforesaid terms and is accordingly disposed of.

6. 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.

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

**(REVATI MOHITE DERE, J.)**