

Anand

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

BAIL APPLICATION NO. 1916 OF 2018

Ajay alias Pappu Anand Kudake .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Satyavrat Joshi, Advocate, for the Applicant
Mrs. P. P. Shinde, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 21.02.2019

P.C.

(CHAMBER MATTER)

. Heard learned counsel for the parties.

2. This is the second Bail Application. Learned counsel for the Applicant seeks bail on the ground of parity. He submits that after the Applicant withdrew his first Bail Application, being B. A. No. 1179 of 2017, co-accused – Mangesh Digambar Survase was granted bail by this Court (Coram : Smt. S. S. Jadhav, J.) vide Order dated 28.06.2018. He further submits that despite the trial having been expedited by this Court (Coram : Revati Mohite

Dere, J.) vide Order dated 31.07.2017, there is no progress in the said case.

3. Learned APP opposes the Application. She submits that the role of the Applicant is not at par with the role alleged to have been played by co-accused - Mangesh Digambar Survase and hence, there is no change of circumstance.

4. Perused the papers. By this second Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 444 of 2016 registered with the Chaturshringi Police Station, Pune for the alleged offences punishable under Sections 307, 326, 449, 323, 504, 504 r/w 34 of the Indian Penal Code, under Section 34 of the Arms Act and under Section 37(1) r/w 135 of the Maharashtra Police Act. The first bail Application preferred by the Applicant, being B. A. No. 1179 of 2017 was withdrawn by the learned counsel for the Applicant after arguing for some time and as such, was dismissed as withdrawn. However, the trial of the Applicant was expedited. A perusal of the papers show that the Applicant and co-accused – Mangesh Survase entered the Complainant's house by breaking open the door and window of

the house and thereafter, assaulted the Complainant by Sword and Sickle. In the said assault, the Complainant sustained severe head injuries. The said assault on the head is alleged to have been caused by the present Applicant. Apart from the statement of the Complainant / Injured, there are other witnesses who have also stated that it is the Applicant who has assaulted the Complainant on his head. As far as parity is concerned, there is no parity with co-accused - Mangesh Survase. The Applicant has as many as seven antecedents and whilst on bail, he has committed the present offence. The possibility of the Applicant threatening and tampering with the witnesses also cannot be ruled out. Having regard to what is stated aforesaid, the Application is rejected. The learned Sessions Judge shall, however, dispose of the case expeditiously.

5. 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.

(REVATI MOHITE DERE, J.)