

Anand

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

**BAIL APPLICATION NO. 2214 OF 2019**

Narayan Sayanna Dogi .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Rajendra Rathod i/b. Mr. Ali Bubere, Advocate, for the Applicant  
Mr. P. H. Gaikwad-Patil, APP, for the Respondent – State  
Mr. Narayan S. Raut, PI, R.A.K.Marg Police Station, Mumbai present

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

**DATE : 19.09.2019**

**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. 42 of 2019 registered with the R.A.K.Marg Police Station, Mumbai, for the alleged offences punishable under Sections 302, 323, 504, 141, 143, 147, 148, 149 & 120B of the Indian Penal Code.

3. Learned counsel for the Applicant submits that admittedly, the Applicant was not present at the spot when the alleged incident took place. He submitted that a perusal of the statement of Paresh Kishor Dalvi would show that the incident took place at the spur of the

moment, when the parties had gone to attend a pre-wedding ceremony. He submitted that in the incident, that took place, the co-accused assaulted Akshay Chavan @ Guru. He submitted that the Applicant has no antecedents.

4. Learned APP does not dispute the fact, that the Applicant was not present at the spot at the time of the alleged incident and that there are no CDR's between the accused i. e. between the accused ( assailant ) and the Applicant, during the period 14.02.2019 to 18.02.2019.

5. Perused the papers. According to the prosecution, the incident took place on the intervening night between 17<sup>th</sup> & 18<sup>th</sup> February, 2019, in the pre-wedding ceremony, in the house of Paresh Dalvi. Admittedly, the Applicant was not present at the spot when the alleged assault took place on Akshay Chavan @ Guru. Similarly, there are no CDR records exchanged between the Applicant and the assailants. The only material against the Applicant is an audio conversation between one Chandan Shivchand Mourya, much prior to the incident, wherein, there is a reference to the deceased and his activities. It also appears that there was a meeting held on 14.12.2018 in which Chandan Mourya was present, and in which the Applicant allegedly stated that he could get anybody eliminated including Akshay

Chavan @ Guru, on payment of money. Although, the said evidence is on record, from a perusal of the statement of Paresh Dalvi, the incident appears to have taken place on the spur of the moment, in the intervening night of 17<sup>th</sup> & 18<sup>th</sup> February, 2019. Whether or not the Applicant was involved or not in the said incident, is a matter which will be decided by the trial Court. The Applicant has no antecedents. The Applicant is in custody since 14.03.2019 and investigation is complete and charge-sheet is filed.

6. Considering the material on record and the role of 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. 25,000/-** 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.** till the framing of charge;
- (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 reside within the jurisdiction of the R.A.K.Marg Police Station, Mumbai for a period of six months from the date of his release;

(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.

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

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.

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

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