

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2307 OF 2019**

1. Pankaj Harishchandra Mhatre
2. Pradip Manohar Naidu
3. Sanjay Prakash Tolve
Versus
The State of Maharashtra

...Applicants
...Respondent

**WITH
CRIMINAL APPLICATION NO. 1 OF 2019
(FOR INTERVENTION)
IN
CRIMINAL BAIL APPLICATION NO. 2307 OF 2019**

Sachin Balkrishna Kene

...Applicant/Intervener

IN THE MATTER BETWEEN :

1. Pankaj Harishchandra Mhatre
2. Pradip Manohar Naidu
3. Sanjay Prakash Tolve
Versus
The State of Maharashtra

...Applicants
...Respondent

Mr. Saurabh D. Butala for the Applicant

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

Mr. Sanjay Kulkarni i/b Ms. Sangita Phad for the Applicant/Intervener in
IA/1/2019

**CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 16th OCTOBER 2019**

P.C. :

1 Heard learned counsel for the parties.

2 As far as applicant No. 1-Pankaj Mhatre is concerned, after arguing for some time, as the Court was not inclined to enlarge the said applicant on bail, learned counsel for the applicants seeks leave to withdraw the application *qua* the applicant No.1-Pankaj Mhatre.

3 As far as applicant No. 2-Pradip Naidu and applicant No.3-Sanjay Tulve are concerned, they seek their enlargement on bail in connection with C.R. No. 138 of 2017 registered with the Dombivali Police Station, Thane, for the alleged offences punishable under Sections 302, 143, 147, 148, 149, 323, 504, 506 of the Indian Penal Code and under Sections 3, 25, 27 of the Indian Arms Act.

4 Learned counsel for the applicant Nos. 2 and 3 seeks bail on the ground of parity. He submits that similarly placed co-accused Omkar, Shubham, Swapnil, Prashant, Shashikant and Sumit have been released on bail by this Court (Coram : Prakash D. Naik, J.) vide order dated 17th September 2018 passed in Bail Application No.1524/2018 and order dated 30th November 2018 passed in Bail Application No. 2684/2018.

5 Learned A.P.P does not dispute the fact that the role of the applicant Nos. 2 and 3 is similar/identical to that of the aforesaid accused.

6 Perused the papers. The incident has taken place on 30th May 2017. The complainant-Sachin is the brother of deceased-Vikrant. It is alleged that there was a quarrel between deceased-Vikrant and Shriram Bhagat at about 12:30 noon, in which, Shriram Bhagat abused deceased-Vikrant and threatened him. At about 2:00 p.m, Shriram Bhagat and other accused came near the complainant's house and started shouting and abusing Vikrant. It is alleged that applicant-Pankaj was armed with a gun and that Shriram Bhagat was abusing Vikrant. It is further alleged that Shriram Bhagat, Mangesh Bhagat abused Vikrant and pounced on him, pursuant to which, all other accused i.e. Omkar, Shubham, Pankaj, Sumit, Pradip (applicant No.2), Sanjay (applicant No.3), Swapnil, Prashant, Shashikant, Sumit's mother, one lady, aged 40-45 years and other 4 to 5 unknown persons surrounded Vikrant. Shriram Bhagat is alleged to have pulled out a revolver and handed it over to Mangesh and asked him to shoot at Vikrant. It is alleged by the complainant that he and his family members went to save Vikrant, however, they were held by the aforesaid accused persons. According to the complainant-Mangesh fired at Vikrant with a revolver, pursuant to which, he sustained a bullet injury.

7 It is not in dispute that the role of the applicant Nos. 2 and 3 is similar to that of other co-accused who have been released on bail.

Learned A.P.P. nor the learned counsel for the complainant dispute the same. Neither the State nor the complainant have challenged the orders granting bail to the co-accused. The applicant Nos. 2 and 3 are in custody since 2nd June 2017. Investigation is complete and charge-sheet is filed.

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

ORDER

- (i) As far as applicant No.1-Pankaj is concerned, the application is dismissed as withdrawn;
- (ii) As far as applicant No.2-Pradip Naidu and applicant No.3-Sanjay Tolve are concerned, they be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- each, with one or two sureties in the like amount;
- (iii) The applicant Nos. 2 and 3 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 Nos. 2 and 3 shall inform their latest place of residence and mobile contact numbers 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 Nos. 2 and 3 to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(vi) The applicant Nos. 2 and 3 shall file an undertaking with regard to clauses (iii) to (v) in the trial Court, within two weeks of their release;

(vii) 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 applicants' bail.

9 The application is accordingly disposed of.

10 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.

11 In view of the above order, intervention application No. 1 of 2019 does not survive. The same is disposed of.

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

REVATI MOHITE DERE, J.