

Anand

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

BAIL APPLICATION NO. 2827 OF 2019

Rohan @ Babu Ratan Mhatre .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Sameer M. Mangaonkar, Advocate, for the Applicant
Ms Veera Shinde, APP, for the Respondent – State
Mr. V. K. Patil, PSI, Vishnu Nagar Police Station, Thane present

CORAM : REVATI MOHITE DERE, J.

DATE : 17.10.2019

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. I-175 of 2018 registered with the Vishnu Nagar Police Station, Dombivli, Thane, for the alleged offences punishable under Sections 302, 307, 326, 324, 506(2), 143, 144, 145, 146, 147, 148, 149 of the Indian Penal Code; under Sections 37(1), 135 of Maharashtra Police Act and under Sections 4, 25 of the Arms Act.

3. Learned Counsel for the applicant seeks bail on the ground of parity i.e. parity with co-accused – Karan Kondasingh Nadar.

4. Perused the papers. According to the prosecution, the incident took place at about 2:45 p.m. It appears that there was a dispute between Saurabh Mohite-the brother of the complainant, juvenile accused-Ashok Singh and Nandu Pawar on account of sending of a WhatsApp message by Saurabh. According to the prosecution, as there was a quarrel between them, in order to settle the dispute, the Complainant, his two uncles-Kundan Joshi and Mukesh Joshi, friend-Nilesh, Parshuram and Mayur (injured witnesses), had gone to Shiv-Mahesh Co-operative Housing Society at Dombivli (East). It is alleged that at that time, the accused persons came there on motor cycles. The said persons who were armed with sword, knives, lathis, etc., attacked the Complainant, his uncles and friends. Pursuant to the incident, the aforesaid offences were registered.

5. Learned APP does not dispute the said fact that the role of the Applicant is similar to that of co-accused – Karan Kondasingh Nadar, who has been enlarged on bail by this Court.

6. Admittedly, the Applicant has not been named in the FIR. As far as Parshuram and Mayur (injured witnesses) are concerned, a perusal of their statements show that the Applicant is alleged to have assaulted them with fist blows. Some of the eye-witnesses in their statements have alleged that the Applicant was armed with a stick and

had assaulted the injured persons with a stick along with other accused, however, the injured witnesses i.e. Parshuram and Mayur do not allege assault by the applicant with a stick. There is recovery of a stick at the instance of the Applicant from an open place. The Applicant is aged 18 years and has no antecedents. The role of the Applicant is identical to that of co-accused – Karan Kondasingh Nadar, who has been enlarged on bail by this Court (Coram : Revati Mohite Dere, J.) vide order dated 05.07.2019.No doubt, it appears that the Applicant was present at the spot, however, considering the role assigned to the Applicant, the Application is allowed on the following terms and conditions :

O R D E R

- (i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs. 25,000/-** with one or more local sureties in the like amount;
- (ii) The Applicant shall attend the concerned Police Station on the **first Saturday of every month** from **10:00 a.m. to 11:00 a.m.** for a period of 12 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 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 cooperate with the conduct of the trial and shall appear before the trial Court on every date unless exempted by the trial Court;

(vi) The Applicant shall file an undertaking with regard to clauses (ii) to (v) in the trial Court, within two weeks of his 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 applicant's bail.

7. The Application 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.)