

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3356 OF 2018**

Ankit Nitin Dewale

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Santosh Bhamre for the Applicant

Mr. A. A. Palkar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 24th JULY 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R. No. I-842 of 2015 registered with the Mumbra Police Station, Thane, for the alleged offences punishable under Sections 396 and 397 of the Indian Penal Code.

3 Perused the papers. According to the prosecution, the incident took place on 25th October 2015 at about 9:30 p.m. It is alleged by the

prosecution that two Nigerians were attacked by the applicant and the other co-accused and that in the scuffle, one of the accused stabbed one Nigerian and assaulted the complainant-C. J. Anikpe i.e. other Nigerian. The FIR was lodged by C.J. Anikpe on 26th October 2015 alleging the aforesaid.

4 The first informant and the deceased were friends. According to the complainant, his friend was attacked on his head on the right side with a hard object and was stabbed in the abdomen, pursuant to which, he collapsed. The complainant has also alleged that he was also attacked with a hard object on his right shoulder, left side of the head and right middle finger. He has stated that after the attack, he called his friend and took the deceased to the hospital, however, on being taken to the hospital, he was declared to be dead.

5 According to the prosecution, co-accused-Amol Patil had made an extra-judicial confession to his friend-Nitesh Patil. Admittedly, in the said extra-judicial confession, the name of the applicant is not disclosed. As far as the alleged eye-witness-Pranali Sarphare is concerned, it *prima facie* appears that she is trying to protect her friend-Amol Patil. Pranali

Sarphare has identified the applicant as being one the persons who attacked the deceased. However, she has not attributed any overt act to the applicant. There is recovery of the mobile phone of the deceased at the instance of the applicant. The applicant has no antecedents. The applicant is in custody since 2015. Investigation is complete and charge-sheet is filed.

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

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two local solvent 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. till the conclusion of the trial;

(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 to cooperate with the conduct of the trial and to attend the trial Court on every date of hearing, unless exempted by the trial Court;

(vi) The applicant to 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.

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

REVATI MOHITE DERE, J.