

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.120 OF 2020**

Mahesh @ Maharaj Chandilkar	]	Applicant
Vs.		
State of Maharashtra	]	Respondent

.....
Ms. Vidya N. Shet, for Applicant.

Ms. P.P. Shinde, A.PP, for Respondent-State.
.....

**CORAM : PRITHVIRAJ K. CHAVAN, J.
DATE : 16th July, 2020.
Through Video Conferencing.**

PC:

By this application, the applicant has prayed for his release on bail in connection with C.R-I 254 of 2018 registered with Padgha Police Station, Dist. Thane for the offences punishable under sections 307, 341, 504, 120B of the Indian Penal Code and under section 3 (25) of the Arms Act.

2. Heard Ms. Shet, learned Counsel for the applicant and Ms. Shinde, learned A.PP, for the Respondent-State. Perused the record.

3. It is informed to the Court that out of seventeen accused, seven accused have already been enlarged on bail who have been charge-sheeted by Padgha Police Station. It is submitted by the learned Counsel for the applicant that identity of the applicant has not been ascertained by the Investigating Officer as to whether he was the person who opened the fire by means of a pistol.

4. The second point urged by the learned Counsel is that the statement under section 164 of the Criminal Procedure Code *qua* Chandrakant Devappa Talegiri, who is 16 years of age reveals that one of the accused namely Vinay had taken out a scythe which was kept beneath the seat of the Qualis Car and after witnessing the same, this witness and others ran away from the spot. It seems that two days thereafter, this witness came to know that accused Vinay and his friends had fired the pistol towards the persons travelling in Innova car. It is further submitted that there is absolutely no material against the applicant in the charge-sheet nor there is any 'Test Identification Parade' conducted by the Investigating Agency to ascertain as to whether the applicant is the person who had opened the fire on the date of the incident. According to the learned Counsel

for the applicant, the applicant deals in construction business with no criminal antecedents. No purpose would be served in incarcerating him behind the bars till the trial is concluded and therefore, prayed for his release.

5. On the other hand, the learned A.P.P though admits that no Test Identification Parade was conducted to ascertain identity of this applicant, yet he had been earlier charged under section 302 of the Indian Penal Code in C.R. No.198 of 2012 which was registered with Paud Police Station. The trial is still pending before the Sessions Court, Pune. The learned A.P.P further submits that no witness in the charge-sheet attributed the alleged role played by this applicant in opening the fire arms.

6. Since the charge-sheet has already been filed and the applicant is stated to have been in the custody since November, 2018 who appears to have roots in the society, no fruitful purpose would be served in continuing his detention in the jail. Secondly, since seven accused have already been enlarged on bail who are said to be co-conspirators then even on the ground of parity, the applicant is

entitled to be released on bail. What is required to be seen while considering the application under section 439 of the Code of Criminal Procedure is that whether the applicant would be available during trial if enlarged on bail and secondly, whether he is likely to induce threat or influence any of the persons who are connected with the case and whether he is likely to commit an offence similar to one for which he has been charge-sheeted. It is not the contention of the learned A.P.P that in case of release of the applicant anything of that sort would happen.

7. It is contended by the learned Counsel for the applicant that the applicant will abide by any terms and conditions which would be imposed by this Court and will not flee away in case of his release as he is a permanent resident of Village Varje, Taluka Haveli, District Pune.

8. Considering all the aspects, I am inclined to release the applicant on bail. Now, to the order:-

: ORDER :

- [1] The applicant be enlarged on bail on furnishing a P.R. bond in the sum of Rs.50,000/- with one solvent surety in the like amount;
- [2] The applicant shall not leave the jurisdiction of Padgha Police Station till conclusion of the trial.
- [3] The applicant shall attend the concerned Police Station on the first Saturday of every month between 11.00 a.m to 1.00 p.m (noon) till conclusion of the trial.
- [4] The applicant shall intimate his latest address of residence and mobile number to the concerned Police Station immediately after his release.
- [5] The applicant shall also intimate change of his address and mobile number, if any, to the concerned Police Station in writing.
- [6] The applicant shall not make any attempt to tamper with the evidence, influence or contact any of the person concerned with this case in any manner whatsoever.

[7] The applicant shall also attend the trial scrupulously.

[8] If there are two consecutive defaults either in attending the Police Station or appearing in the trial Court or breach of any of the conditions as stated above, the prosecution is at liberty to apply for cancellation of his bail.

[9] It is made clear that the observations made hereinabove are *prima facie* which are only for the purpose of deciding the application of bail.

[10] The learned trial Judge shall decide the case on merits uninfluenced by the observations made in this order.

The application is disposed of in the aforesaid terms.

9. This order will be digitally signed by the Personal Assistant of this Court. All concerned shall act on production by fax or e-mail of a digitally signed copy of this order.

Shailaja
S.
Halkude

Digitally signed
by Shailaja S.
Halkude
Date:
2020.07.16
19:27:23 +0530

[PRITHVIRAJ K. CHAVAN, J.]