

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

CRIMINAL BAIL APPLICATION NO.779 OF 2020

Mandira
Salgaonkar

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Sunil Haribhau Jadhav

.. Applicant

versus

The State of Maharashtra

.. Respondent

...

Mr.Satyajit Bora i/b Mr.Pravin M. Dabade for the Applicant.

Mrs.M.M.Deshmukh, APP for the State.

CORAM: BHARATI DANGRE, J.

DATED : 15th DECEMBER, 2020

P.C:-

1. The applicant, who has been charge-sheeted in C.R.No.157 of 2017 registered with Haveli Police Station and who was arrested on 30th April, 2017, seek his release on bail. He has been charged under Sections 301, 302, 120-B, 341, 143, 147, 148, 149 of IPC and under Sections 3(25), 4(25) of the Arms Act with Section 135 of the Maharashtra Police Act.

2. The applicant claim parity with co-accused Sunil Shelar (Bail Application No.2291 of 2017) who has been released on bail on 13th December, 2017 by this Court. Another order is in case of co-accused Pankaj Tate (Criminal Bail Application No.2964 of 2018 dated 5th February, 2019) and in case of

Sachin Deepak Gaikwad (Criminal Bail Application No.930 of 2019 dated 24th September, 2020).

3. On perusal of the First Information Report and the material contained in the charge-sheet, when the learned APP was specifically posed with the question as to what is the distinguishing factor between the three applicants, who have been released on bail and the present applicant before this Court, namely, Sunil Jadhav, she state that there is a recovery of country made pistol from him, under Section 27 of the Indian Evidence Act.

4. Perusal of the complaint resulting into registration of FIR would refer to an incident dated 27th April, 2017 and the allegation levelled is to the effect that while the complainant accompanied with deceased Balasaheb Ghule and Akshay Kiwale was driving the Scorpio car, they crossed path with a dumper being driven by Tanaji Kamble. Another white coloured Scorpio followed them and this was being driven by Milind Kiwale. It is alleged that from the said Scorpio, Milind Kiwale, Rahul Kiwale, Akshay Chaudhari, Datta Pokale and five unknown persons alighted. Tanaji Kamble, who was driving dumper, also got down and he had a revolver in his hand, is the allegation of the complainant. It is also alleged that Milind Kiwale, who alighted from the Scorpio, also had a gun whereas Rahul Kiwale was armed with revolver. It is alleged that

Akshay Chaudhari and Datta Pokale alongwith five other unknown persons had sickles in their hands. The incident is then described in detail and Tanaji Kamble and Rahul Kiwale are attributed role of firing from their revolver. At that time, the five unknown persons are attributed the role of pulling out the deceased and attacking him by means of sickle in his head, stomach and face. The complainant has clearly described the incident and apart from the named accused persons, five unknown persons are alleged to have used sickles as a weapon for assaulting the deceased.

5. The recovery of the country made pistol, at this stage in absence of any evidence to the effect that it was used as a weapon as per the version of any witness, is not of any significance. The applicants, who have been released on bail and who have been referred to above, are the one who have not been named in the FIR and are part of the five unknown persons to whom reference has been made by the complainant. Sunil Shelar has been released on bail on the ground that in the supplementary statement of the complainant, the names of five unknown persons were disclosed, but the Court has *prima facie* observed that the test identification parade that was conducted, was not in terms of the Criminal Manual. The direct ocular evidence available and the fact that the assailants were known to the complainant, it was observed that it would be doubtful to conclusively establish that the applicants were present

alongwith the principal accused at the time of incident and, therefore, they were held to be entitled for release on bail.

Sachin Gaikwad was also admitted to bail by relying upon the said order. In any case, since the charge-sheet has been filed and considering the role attributed to him and further the applicant is incarcerated since 30th April, 2017, the applicant deserve to be released on bail subject to the similar conditions as imposed on the co-accused.

: ORDER :

- (a) Application is allowed.
- (b) Applicant – Sunil Haribhau Jadhav shall be released on bail in C.R.No.157 of 2017 registered with Haveli Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with the prosecution evidence.
- (d) The applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every date of hearing, unless exempted by the Court.

- (e) The applicant shall provide the residential address and mobile number to the Investigating officer.
6. The application is disposed of in the aforesaid terms.

SMT. BHARATI DANGRE, J