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

CRIMINAL BAIL APPLICATION NO.56 OF 2020

Chandan Jugraj Bhadoriya	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Sachin B. Chandan, for the Applicant.

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

CORAM : REVATI MOHITE DERE, J.

DATE : 18th MARCH, 2021

P.C. :

1. Heard learned counsel for the parties.
2. This is the second bail application preferred by the applicant seeking his enlargement on bail in connection with C.R.No.I-404 of 2018 registered with the Mahatma Phule Chowk Police Station, Thane, for the alleged offences punishable under Sections 307, 324, 504, 506 r/w 34 of the Indian Penal Code and under Sections 37(1) and 135 of the Maharashtra Police Act.
3. Learned Counsel for the applicant submits that the applicant is

in custody since 6th October 2018 and till date there is no progress in the trial. He submits that even charge has not been framed in the said case till date and the prospect of the trial commencing in the immediate further also appears to be bleak. Learned Counsel for the applicant submits that co-accused – Shiva Prajapati and Prince @ Manu Shukla, have been enlarged on bail by the trial Court. He submits that the applicant has completed his Engineering. However, no document has been placed on record, in support of the same.

4. Learned Counsel for the applicant has tendered an affidavit-cum-undertaking of the applicant duly affirmed before the Jailor, Kalyan District Prison, Kalyan, undertaking that he will not enter the jurisdiction of Mahatma Phule Police Station, or within the jurisdiction of Kalyan City; that he will attend the trial Court on regular basis; that he shall make himself available to the police, as and when called; that he will not induce, threaten or tamper any of the witness; that he will not misuse the liberty granted to him; that he will abide each and every condition imposed on him; and, that he will not involve himself in any illegal activities. The said affidavit-cum-undertaking is taken on record.

5. Learned APP opposed the application. He submits that the

applicant has one antecedent i.e. a case registered against the applicant and others in 2016, for the alleged offences punishable under Sections 144, 147, 148, 149, 326, 323, 427 of the Indian Penal Code.

6. Perused the papers. The incident in question has taken place on 5th October 2018. The complainant – Ramraj Hari Sonar is a witness to the said incident. From a perusal of the complaint/FIR, it appears that there was a quarrel between Prakash Marathe, Manu Shukla, Shiva and the applicant. The complainant has alleged that when he questioned Prakash Marathe the reason for quarrel, he informed him that the applicant along with the other two accused were teasing his niece, as a result of which, there was a quarrel between them. It is alleged that when the complainant's nephew (Anarjeet) intervened in the quarrel, the applicant got enraged and abused him in filthy language; went to his house and brought a knife and assaulted Anarjeet (complainant's nephew) on his back and head. Pursuant thereto, the aforesaid complaint was lodged alleging the aforesaid offences. The first bail application was dismissed as withdrawn vide order dated 29th August 2019, as the Court was not inclined to enlarge the applicant on bail. Whilst dismissing the said application, the trial of the applicant was expedited. It is informed that till date there is no progress in the trial nor charge is framed. The applicant is in custody since 6th October, 2018 i.e. for more than 2 ½

years. Despite expediting the trial, the trial has not commenced. The other two co-accused i.e. Shiva Prajapati and Prince @ Manu Shukla, have been enlarged on bail. Although, learned counsel for the applicant submits that the applicant has completed his Engineering, no document has been placed on record. According to the learned counsel for the applicant, since the applicant is in jail, his parents are unable to find his documents. The applicant has filed an affidavit-cum-undertaking. In the said affidavit-cum-undertaking the applicant has undertaken that he will not enter the jurisdiction of Mahatma Phule Police Station, or within the jurisdiction of Kalyan City; that he will attend the trial Court on regular basis; that he shall make himself available to the police, as and when called; that he will not induce, threaten or tamper any of the witness; that he will not misuse the liberty granted to him; that he will abide each and every condition imposed on him and that he will not involve himself in any illegal activities.

7. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- (i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 20,000/- with one or two local sureties in the like amount;

(ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 12:00 noon, till the conclusion of the trial;

(iii) The applicant shall inform his latest place of residence and mobile contact number immediately after being released 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;

(iv) The applicant shall not enter the jurisdiction of Mahatma Phule Chowk Police Station, or the Kalyan City, till the conclusion of the trial, except for the purpose of attending the police station, as mentioned in clause (ii);

(v) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(vi) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) If there are two consecutive defaults either in attending the Police Station or if the applicant fails to appear before the trial Court, or there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

8. The application is allowed in the aforesaid terms and is accordingly disposed of.

9. 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.

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

REVATI MOHITE DERE, J.