

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL BAIL APPLICATION NO.1030 OF 2021**

Ankush Sudhir Tayde

....Applicant.

Vs.

The State Of Maharashtra

....Respondent.

Mr. R.S. Dwivedi for the Applicant.

Mr. S.S. Hulke, APP for the Respondent-State.

CORAM : A. S. GADKARI, J.
DATE : 16th JUNE, 2021.
(Through Video Conferencing)

P.C.:-

This is a successive Application for bail by the Applicant. The earlier Bail Application No.2264 of 2017 preferred by the Applicant was rejected by this Court by its Order dated 12th February, 2018.

2 This is an Application under Section 439 of the Code of Criminal Procedure, 1973 (for short, "*the Cr.PC.*") for bail in C.R. No.483 of 2016 dated 27th November, 2016 originally registered with Amboli Police Station, Mumbai and subsequently investigated by DCB CID AEC Unit, Mumbai having renumbered C.R. No.70 of 2016, under Sections 115, read with Sections 302 387, 120(B) read with Section 34 of the Indian Penal Code (for short, "*the IPC*"), under Sections 3, and 25 of Indian Arms Act and under Sections 37(1)(a), 135 of the Maharashtra Police Act.

3 Heard learned counsel for the Applicant and learned APP
Perused the record.

4 Mr. Dwivedi, learned counsel for the Applicant submitted that,
the Applicant is seeking bail predominantly on the two grounds, (i) under
Section 436-A of the Cr .P. C. as the Applicant has undergone more than
50% of the sentence as of today and; (ii) the co-accused namely Vishal @
Baba Achut Patil, who is similarly situated, has been released on bail by the
co-ordinate Bench (Shri. Prakash D. Naik, J.) by its Order dated 28th April,
2021. He submitted that, the co-ordinate Bench has also taken into
consideration the aspect of Section 436-A of Cr. P. C., apart from the merits
of the case. He therefore, prayed that, the Applicant may be released on
bail.

5 The record indicates that, the Trial Court by its Order dated
17th February, 2018, has discharged the Applicant from Section 302 of the
IPC and now, only Sections 115, 120-B, 387 read with Section 34 of the IPC
are applicable to the Applicant in the present crime. The Applicant was
arrested on 27th November, 2016 and the maximum sentence under Section
387 is 7 years.

6 Mr. Hulke, learned APP fairly conceded to the fact that, Section
436-A of Cr.PC. and the principle of parity applies to the present Applicant
with co-accused Vishal @ Baba Achut Patil, who has been granted bail by
the co-ordinate Bench by its Order dated 28th April, 2021.

7 Perusal of record would indicate that, the Applicant is in custody since 27th November, 2016 and he has completed 4 years and 6 months in incarceration till today, *Inter-alia* the Applicant has completed more than 50% of the sentence prescribed under Section 387 of the IPC till today. As far as the role of the present Applicant in the present crime is concerned, he was apprehended at the scene of offence with a knife and he has been charged with abetment of commission of offence and conspiracy. It appears from the record that, though the role attributed to the Applicant and co-accused Vishal @ Baba Achut Patil differs to some extent, he is similarly situated and the principle of parity is squarely applicable to the Applicant with co-accused Vishal @ Baba Achut Patil.

He is therefore, entitled to be released on bail.

8 Hence, the following Order-

- a) Applicant be released on bail in C.R. No.70 of 2016 registered by Anti Extortion Cell, Crime Branch, CID Unit, Mumbai on his furnishing PR bond of Rs.50,000/- with one or two local sureties in the like amount.
- b) After his release from Jail, the Applicant shall attend the Anti Extortion Cell, Crime Branch, CID once in a three months on first Saturday of the month between 11.00 a.m. and 1.00 p.m. and shall mark his presence, till

further Orders.

- c) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.
- d) The Applicant is permitted to furnish provisional cash bail in the sum of Rs.50,000/- for 16 (sixteen) weeks and during the said period, he is permitted to furnish sureties as mentioned in sub-para (a) above.

9 Application is accordingly allowed in the aforesaid terms.

(A.S. GADKARI, J.)