

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

CRIMINAL BAIL APPLICATION NO. 1251 OF 2021

Deepak Ganesh Bhandwalkar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Priyal Sarda, for the Applicant

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

CORAM : REVATI MOHITE DERE, J.

DATE : 27th September, 2021

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. 281 of 2018 registered with the Saswad Police Station, Pune, for the alleged offences punishable under Sections 302, 307, 143, 145, 147, 148, 149 of the Indian Penal Code.

3. Learned counsel for the applicant seeks bail on the

ground of parity. He submits that identically placed co-accused Mayur alias Mahesh Ramesh Borade, has been enlarged on bail by this Court (Coram: Revati Mohite Dere, J.) vide order dated 4th March 2021, in Criminal Bail Application No. 3455 of 2019. He submits that the applicant has no antecedents.

4. Learned APP does not dispute the fact, that the role of the applicant is identical to that of co accused- Mayur alias Mahesh Ramesh Borade. Learned APP also does not deny the fact, that the applicant has no antecedents.

5. Perused the papers. The incident is alleged to have taken place on 31st July 2018. According to the prosecution, the applicant along-with other co-accused formed an unlawful assembly and assaulted the deceased - Santosh. The reason for assault is stated to be previous enmity between the deceased- Santosh on one hand and Dadaso Katke and Dattatray Katke on other. It is alleged that due to the said enmity, Santosh was called by the co accused, pursuant to

which Santosh and the complainant- Sadhu went to the said spot. According to the prosecution, Dadaso Katke, Bharat Gaikwad and Hemant Gaikwad pointed a country made revolver at Santosh. It is alleged that the complainant snatched the revolver from one of the accused, as a result of which, Dattatray Katke, Bharat Gaikwad and Hemant Gaikwad held the complainant and Balu Gaikwad assaulted him with a stone on his head. It is alleged that thereafter, all the accused assaulted him with fist and kick blows. According to the complainant, Dadaso Katke and Hemant Gaikwad fired at Santosh, as a result of which he fell down, after which Deepak Bhandwalkar (applicant), Mayur, Akshay Gaikwad and Aadesh Pawar assaulted Santosh with stones. In the history given to the doctor, the complainant has stated that “assault/injury by unknown persons at around 10.00 p.m. in Bhivari, Taluka- Purandar, District Pune on 31st July 2018.” It appears that although the FIR is lodged as against 10 persons, in the supplementary statement, 5 more persons have been added by the complainant.

6. It is pertinent to note that there are eye-witnesses to the said incident and that the statements of the eye- witnesses have been recorded, both under section 161 of Cr.PC. as well as under Section 164 of Cr.PC. Prima facie, there appears to be some discrepancies between the 161 statements as well as the 164 statements of the said witnesses. Infact, one of the eye-witness i.e. Akshay Limbhore has given a completely different version i.e. the deceased- Santosh and his father (complainant) were the aggressors. It appears that some of the co-accused were released on bail by this Court. A perusal of the order dated 2nd August 2019, passed by this Court (Coram: Sarang V. Kotwal, J.) enlarging co-accused – Aadesh Shivaji Pawar and order dated 12th February 2020 (Coram:Prakash D. Naik, J.) enlarging co-accused – Mohan Laxman Gaikwad, show that the role of the applicant is similar to that of the said co-accused, who have been released on bail. Learned APP does not dispute the same.

7. Considering the aforesaid, on the ground of parity, 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. 25,000/- with one or more 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, until further orders;
- (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 to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;
- (v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

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

(vi) If there is breach of any of the aforesaid conditions/undertaking, 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.