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

CRIMINAL BAIL APPLICATION NO.2023 OF 2019

Amit Vijay Singh

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Aniket U. Nikam i/b Mr. Aashish I. Satpute, for the Applicant.

Mr. P. H. Gaikwad-Patil, A.P.P for the Respondent – State.

Mr. Sandip M. Madhale, Assistant Police Inspector, Kondhwa Police Station, Pune, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 4th MARCH, 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. 750 of 2018 registered with the Kondhwa Police Station, Pune, for the alleged offences punishable under Sections 302, 307, 120B r/w 34 of the Indian Penal Code; under Section 3(25) of the Arms Act and under Sections 37(1) r/w 135 of the Maharashtra Police Act.

3. Learned Counsel for the applicant submits that there is no material to connect the applicant with the alleged offences. He submits that the applicant is not amongst the 4 persons who barged into the jewellery shop where one of the said 4 persons fired at the deceased – Amrat Parihar. He submits that the applicant was studying at the relevant time i.e. he was in S.Y. BCom and that the applicant has no antecedents. He submits that there is no recovery of any article, at the instance of the applicant.

4. Learned APP opposed the application. Learned APP, on the instructions of the officer, who is present in Court does not dispute the fact that the applicant was not amongst the 4 persons, who barged into the jewellery shop, where one of the said 4 persons fired at the deceased – Amrat. He, however, submits that the applicant is seen in the CCTV footage purchasing a sticking/cello tape. Learned APP also does not dispute that there is no recovery at the instance of the applicant and that the applicant has no antecedents.

5. Perused the papers. On 21st November 2018 at about 1:30 p.m. when Amrat, an employee of Ganesh Jewellers was working at the counter, 4 unknown persons entered the said shop. One of the said 4 unknown persons fired at Amrat, as a result of which, he succumbed to the said

firearm injury. Admittedly, the applicant was not amongst the said 4 persons, who entered the said jewellery shop. There is no recovery at his instance. The applicant has not been identified by any of the witnesses. It appears that the only allegation as against the applicant is that he is seen in the CCTV footage purchasing a sticking/cello tape. *Prima facie*, that by itself cannot be said to be an incriminating substance, as against the applicant. It also appears that a motorcycle was seized from the parking area of the building where the applicant resides. However, it may be noted that the applicant's elder brother is also an accused in the aforesaid case and is stated to be amongst the 4 persons who entered the jewellery shop and as such the said accused parking the said motorcycle in the building, cannot be ruled out. It appears that the applicant's brother has also been identified in the Test Identification parade, which was held. It appears that the applicant was studying in S.Y. BCom at the time of the alleged incident. Investigation is complete and charge-sheet is filed. The applicant has no antecedents.

6. Considering the material on record *qua* the applicant, the applicant is entitled to be enlarged on bail. Accordingly, 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 furnishing P.R. Bond in the sum of Rs.25,000/- 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 not leave the jurisdiction of Pune District, without the prior permission of the trial Court;
- (iv) 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;
- (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.

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

8. 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.

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

REVATI MOHITE DERE, J.