

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2932 OF 2019**

Ashish Rohidas Nalawade

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Aniket U. Nikam i/b Mr. Vivek Arote for the Applicant.

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

CORAM : REVATI MOHITE DERE, J.
DATE : 29th JANUARY, 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. 285 of 2016 registered with the Warje Malwadi Police Station, Pune, for the alleged offences punishable under Sections 302, 341, 120(b) r/w 34 of the Indian Penal Code; Section 3(25) of the Arms Act; and under Section 37(1) r/w 135 of the Maharashtra Police Act.
3. Learned counsel for the applicant submits that the prosecution

case rests on circumstantial evidence and there are no incriminating circumstances to connect the applicant with the alleged offence. Learned counsel for the applicant also seeks bail on the ground of parity. He submits that co-accused Suvarna Bharam who is similarly placed as the applicant, has been released on bail. Similarly, Savita Kate, Nitin Yede and Balu Pakire have also been released on bail.

4. Learned APP opposed the application.

5. Perused the papers. According to the prosecution, the incident took place on 10/06/2016. It is alleged by the complainant-Vilas Bharam, that on 10/06/2016 at about 11.30 p.m., when his brother Bajrang (deceased) was returning home on his Scooty, he was assaulted by some unknown persons for some unknown reason. Pursuant to the said complaint, the aforesaid C.R. was registered. It is the case of the prosecution that the wife of the deceased (Suvarna Bharam – also a co-accused in the said case) was having illicit relations with the applicant, pursuant to which the deceased was killed. Apart from the alleged motive attributed to the applicant and co-accused Suvarna, prima facie, there is no other incriminating material to connect the applicant with the alleged offences.

6. As noted above, the prosecution case rests on circumstantial evidence. There is no recovery of any weapon at the instance of the applicant, nor any evidence of last seen or extra judicial confession. All the other co-accused have been released on bail. The applicant is in custody for the last four years. Investigation is complete and chargesheet is filed.

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. 25,000/- (Rs. Twenty Five Thousands Only) with one or more solvent sureties in the like amount;

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

(iii) The applicant to co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(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 shall file an undertaking with regard to Clauses (iii) to (iv) in the trial Court, within two weeks of his release;

(vi) If 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.