

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

CRIMINAL BAIL APPLICATION NO. 3387 OF 2019

Gurunath Panglu Gaikar	...Applicant
Versus	
The State of Maharashtra & Anr.	...Respondents

Mr. Raju Digamber Suryawanshi for the Applicant

Ms. P. P. Shinde, A.P.P for the Respondent No.1–State

Mr. Sanjay Kulkarni for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 11th FEBRUARY 2021

P.C. :

1 This is the second bail application preferred by the applicant seeking his enlargement on bail in connection with C.R. No. I-337/2015 registered with the Ambarnath Police Station, for the alleged offences punishable under Sections 302, 143, 144, 147, 148, 149, 341 of the Indian Penal Code; under Sections 4, 25 of the Arms Act and under Sections 37(1), 135 of the Maharashtra Police Act.

2 Learned counsel for the applicant seeks bail on the ground of parity. Learned counsel for the applicant submits that the subsequent change of circumstance after the applicant's first bail application was rejected (vide order dated 7th August 2017) is the grant of bail to co-accused-Jagdish Thete by this Court vide order dated 22nd March 2019. He submits that the role of the applicant is similar to that of co-accused-Jagdish Thete.

3 Learned A.P.P opposes the application. She submits that the trial has commenced inasmuch as, charge is framed against the accused and the matter is posted for 15th February 2021, for recording of evidence, pursuant to the witness summons issued by the Court. She submits that the first bail application is rejected on merits and that there is no change of circumstance. She submits that the applicant has 2 antecedents against him. She submits that the applicant has been identified in the identification parade and that there are call log records which point to the complicity of the applicant.

4 Learned counsel for the intervener adopted the submissions advanced by the learned A.P.P.

5 Perused the papers. Vide order dated 7th August 2017, the applicant's first bail application was rejected by this Court (Coram : Revati Mohite Dere, J.). The said order rejecting the applicant's bail application was on merits, after considering the material on record and is a detailed order. It is recorded that the evidentiary value of Prasad Rasal's statement, although recorded belatedly, *prima facie*, shows the complicity of the applicant in the alleged crime. Prasad Rasal, in his statement has stated that all the accused were discussing about Pappu @ Ramesh Gunjal (deceased) and that the applicant exhorted his son-Sandip to kill Pappu @ Ramesh Gunjal. Apart from the aforesaid statement of Prasad Rasal, the statement of Chetan Raut shows that the applicant's brother-Ramdas Gaikar (also a co-accused in the said case) had come to his house and disclosed that Pappu @ Ramesh Gunjal is murdered and that he (Chetan Raut) should accompany him. He has further stated that while leaving the premises, he saw the applicant waiting for them outside and that they all accompanied the applicant to Badlapur, on his motorcycle. The statement of the landlady-Prerna Shinde shows that she had given her house on temporary basis to the applicant and that the applicant left the said premises soon after the incident, on 25th December 2015, without informing her about the same. The applicant was absconding for about 5 months. The CDR also shows the

presence of the applicant in the village at the relevant time. The applicant has 4 cases registered against him. The said cases are between the applicant and others on the one hand and the deceased, on the other. All the said offences are bodily related offences.

6 Considering the aforesaid, no case is made out for grant of bail. Even otherwise, the trial has commenced. Accordingly, the application is rejected. However, the trial of the applicant is expedited.

7 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.

REVATI MOHITE DERE, J.