

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

901. CRI. APPLN/3634/2015

RAJENDRA BABAJI BHOR
V/S
THE STATE OF MAHARASHTRA

WITH
CRI. APPLN/4072/2015

JANARDHAN @ VINAY VISHNU MHASKE
V/S
THE STATE OF MAHARASHTRA

Mr. N.B. Suryawanshi, Advocate for applicant in Cri. Appln. No. 3634/2015.

Mr. N.V. Gaware, Advocate for applicant in Cri. Appln. No. 4072/2015.

Mrs. R.K. Ladda, APP for State.

CORAM : T.V. NALAWADE, J.

DATED : 9th September, 2015.

ORDER :

1. Both the applications are filed for bail. Both the sides are heard. During arguments, when this Court expressed that this Court is not inclined to grant bail, learned counsel Shri. Suryawanshi for applicant - Rajendra Bhor in Criminal Application No. 3634/2015 on instruction submitted that he wants to withdraw the proceeding. So, Criminal Application No. 3634/2015 is disposed of as withdrawn.

2. It is a matter of record that bail was refused many times to the applicant Shri. Janardhan alias Vinay Vishnu Mhaske. The first application was rejected on 16.4.2012. On few occasions, when this Court expressed that this Court was not inclined to grant the bail, applications were withdrawn. But, the fact remains that on merits this Court has refused bail to Janardhan. When last application of Janardhan was withdrawn, an attempt was made to get the relief in Supreme Court. But, this application was disposed of on 17.11.2014 and the Hon'ble Apex Court gave liberty to move the application for bail before this Court if trial is not concluded before 30.6.2015. It can be said that the Apex Court had also two occasions to consider the applications filed for bail, but the Apex Court did not grant bail.

3. The learned counsel for applicant submitted that there is circumstance like bail is granted to two accused like Ajay Nair and Vinod Bhalerao and that was granted on 11.11.2014. The other Hon'ble Judge of this Court has granted bail to these accused. But in the Apex Court the proceeding filed for bail by the present applicant to challenge the order made by this Court came to be disposed of on 17.11.2014 and so, it needs to be presumed that even when there was bail granted to two other accused by other Hon'ble Judge of this Court, present applicant

could not get any relief in Supreme Court. Further, the orders made by the other Hon'ble Judge do not show that the orders of refusal of bail made by this Court in the past were considered. In view of these circumstances, parity cannot be used on the basis of orders made by the other Hon'ble Judge of this Court.

4. It was a political murder and sharp shooters were hired by a political leader. The persons, who were hired, finished the opponent in politics by using fire arm. There is the case of conspiracy and murder against the present applicant and the main accused, the said political leader. The prosecution wants to prove the conspiracy on the basis of various pieces of circumstances collected during investigation. The learned counsel for the applicant submitted that one witness, who had seen the applicant in the company of shooter, has turned hostile and so, the applicant is entitled to get bail.

5. It appears that prosecution has examined all the witnesses and the Investigating Officer is under cross examination. After that there will be no witness who will be examined by the prosecution. Thus, for granting relief to the present applicant, this Court will be required to consider and appreciate the evidence already given against the applicant. In a

case of conspiracy, it is never advisable to undertake such exercise at this stage and so, this Court is avoiding to consider and discuss the evidence actually given by the prosecution witnesses on conspiracy. There is possibility of getting influenced by the trial Court due to the observations and discussion made by this Court. In any case, in view of the circumstances that all the witnesses are now examined, the case itself will be disposed of in near future. This Court holds that bail cannot be granted to the present applicant.

6. In the result, Criminal Application No. 4072/2015 stands rejected.

[T.V. NALAWADE, J.]

ssc/