

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.5713 OF 2015

Ramesh s/o Sheshrao Bangar,
Age 28 years, Occu. Agri.,
R/o Pola Maroti, Hingoli,
Taluka and District Hingoli

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr R.N. Dhorde, Senior Counsel i/b Mr V.R. Dhorde, Advocate for
applicant

Mr N.T. Bhagat, A.P.P. for respondent

Mr R.R. Mantri, Advocate for complainant, assisting the A.P.P

CORAM : N.W. SAMBRE, J.

DATE : 28th October 2015

PER COURT

1. Heard Mr Dhorde, learned Senior Counsel for the applicant and learned Addl. Public Prosecutor who is assisted by Mr R.R. Mantri, learned Counsel for the complainant.

2. Applicant herein is seeking pre-arrest bail in Crime No.176/2015 registered at City Police Station, District Hingoli, for the offences punishable under Sections 302, 120-B, 341 read with sec.34 of the Indian Penal Code.

3. The case of the prosecution against the present applicant is that on 7th September 2015, the complainant's real brother Ram, a juice center owner who is competitor in business with Sonu and Balu Gajalwar was murdered. The prosecution alleged that the applicant herein was one of the conspirator in the commission of said crime.

4. Mr Dhorde would urge that after registration of crime, it is noted that the applicant was not named in the first information report, however, after addition of Section 120-B of Indian Penal Code during investigation, certain role of conspiracy was attributed against the applicant and applicant is roped in the case. According to him, the applicant is falsely implicated and in absence of direct attributions, the evidence against the applicant, he is entitled to be released on pre-arrest bail in the matter.

5. Learned A.P.P., who is assisted by Mr Mantri, learned Counsel for the complainant would urge that there are criminal antecedents against the applicant and has invited my attention to M.C.A. No.245/2015 and Crime No.176/2015. Apart from above, Mr Mantri would urge that the role of conspiracy is always discovered later on during investigation and it is not necessary that the accused is not named in the first information report. Learned A.P.P. while trying to oppose the application has invited my attention to statement of Amol Kute and Gopal Pawar which were recorded on 17th September 2015 and 12th October 2015 and would urge that there is a direct evidence against the present applicant as regards conspiracy. He would urge that the C.D.R. depict that the applicant was in touch with the accused persons and as such, according to him, there is enough material available on record against the applicant, as such the application is liable to be rejected.

6. With the assistance, I have perused the entire investigation papers. The investigation appears to be at quite advanced stage.

Perusal of the statements of both the above referred witnesses only speak of involvement of the applicant to the extent of hatching of conspiracy, however, if those statements are taken to be true at this stage, it is really difficult to infer that there was direct involvement of the applicant in commission of crime in question, particularly when one of the witnesses namely Amol has stated in his statement that it was the other accused than the present applicant, who has assured him some money in return of crime in question.

7. Apart from above, there is no direct attribution against the applicant in the case as regards commission of crime in question.

8. So far as perusal of C.D.R. of the applicant is concerned, the applicant was holding the mobile No.8888923737 and he has made calls from this number to other accused person's mobile No.9175735054 is denied, however, it is not clear from the investigation papers as to whether the said number is of any of the accused named in crime in question, in absence of any material to that effect on record. As such, in my opinion, it will be appropriate to grant pre-arrest bail to the applicant. Hence, I proceed to pass the following order.

(I) In the event of his arrest in Crime No.176/2015 registered at City Police Station, District Hingoli, for the offences punishable under Sections 302, 120-B, 341 read with sec.34 of the Indian Penal Code. the applicant Ramesh Sheshrao Bangar be released on bail upon furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty-five thousand) with one surety in the like amount;

(II) The applicant shall attend the concerned police station on 2nd, 3rd and 4th November 2015 between 10.00 a.m. and 11.00 a.m. and thereafter as and when called for;

(III) As volunteered by Mr Dhorde, learned Counsel for the applicant, till filing of charge-sheet the applicant shall stay away from the jurisdiction of City Police Station, Hingoli, but for co-operating the investigation.

9. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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