

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 162 OF 2015

Nikhil Rajendra Potghan	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Daulat G. Khamkar, Advocate for the applicant.
Mr. S.S. Pednekar, APP for the State.

CORAM : MRS. MRIDULA BHATKAR, J.
DATE : 23rd March, 2015.

P.C.

This Application is moved for bail. The applicant/accused is facing charges under sections 302, 143, 147, 148, 149, 323 of the Indian Penal Code and under sections 3, 4(25) of the Arms Act. One Sarika Goraksha Taware gave information to the police at Haveli Police Station and pursuant to which, the offence is registered at C.R. No.297 of 2013.

2. It is the case of the prosecution that one Pappu Taware who was notorious criminal was killed on the night of 8th December, 2013 at around 11 p.m. in village Jambhali, Taluka Haveli, District Pune.

3. The learned counsel for the applicant/accused has submitted that the death of the deceased is in a suspicious manner. He submitted that the police have encountered the deceased, as he was involved in number

of criminal cases and he was a wanted accused for the police. On the date of the offence, i.e. on 8th December, 2013 and prior to that, the police were in search of the deceased and they had received information that the deceased was going to attend the village function on that day. He submitted that the police were present in the village and as per the prosecution case, the co-accused killed the deceased on that night. The learned counsel submitted that there is no evidence against the applicant/accused. His name is not appearing in the FIR or in the statement of the eye witnesses. His name has appeared for the first time in the supplementary statement of some witnesses, which were recorded 7 to 8 days thereafter.

4. The learned APP opposed the Application. He pointed out the supplementary statement of the witnesses, who has identified the applicant/accused along with the co-accused and the role attributed to the applicant/accused that he was present with co-accused and asked the other persons to get out of the house and killed the deceased. He further relied on the statement of two witnesses Mandar and Nikhil who have stated that the applicant/accused helped the co-accused by booking room in the hotel after the incident of murder on 8th December, 2013. The learned APP submitted that the applicant/accused has actively helped them and there is evidence against the applicant/accused, as the

applicant/accused is facing the charge of conspiracy.

5. Perused the FIR and the statements of the witnesses and the documents produced. The PM notes of the deceased discloses that the death caused due to multiple fire arm injuries. His name is not seen in the statement of eye witnesses or other witnesses, which were recorded. The applicant/accused is a student and he is 22 years old. Though as per the case of the prosecution, the applicant/accused has actively helped the co-accused in sheltering them in the hotel, considering the allegations made against him and the manner in which the incident of murder has taken place, I am inclined to grant bail to the applicant/accused on the following terms and conditions:

ORDER

- (i) Application is allowed.
- (ii) The applicant/accused be enlarged on bail on furnishing P.R. Bond in a sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) The applicant/accused shall not commit any offence and shall not indulge into any criminal activity.
- (iv) The applicant/accused shall not pressurize the complainant and other persons.

(v) The applicant/accused shall make himself available and attend all the Court dates.

(vi) The applicant/accused shall not abscond and furnish his permanent address to the police along with address proof.

(vii) Violation of any of the conditions imposed shall amount to cancellation of bail forthwith.

(viii) The applicant/accused shall not leave India without the prior permission of the Court.

6. The Application stands disposed of accordingly.

(MRS. MRIDULA BHATKAR, J.)