

Amru Manga Baberia		Applicant
Vs.		
The State of Maharashtra		Respondent

CORAM: REVATI MOHITE DERE, J.

DATED: APRIL 23, 2015

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.

2. The applicant seeks his enlargement on bail in connection with C.R. No.I-24 of 2010, registered with the Boisar Police Station, for

the alleged offences punishable under Sections 395, 397 and 216 of the IPC and under Sections 3 and 25 of the Arms Act as well as under Section 3(1), 3(2) and 3(4) of the MCOC Act.

3. The alleged incident has taken place on 16-2-2010, at about 11:30 p.m.. It is alleged that all the accused persons had come to the Country Liquor Bar at Avadhnagar, Boisar. It is alleged by the complainant that after his brother Rakesh More had closed the Bar and was leaving for his residence, co-accused Uday Singh @ Chotu fired a shot from a country-made katta at Rakesh, while attempting to snatch the bag containing money. As a result of the bullet injury received, Rakesh died on the spot. It is alleged that all the accused thereafter ran away after snatching the bag containing the money as well as other articles like a gold necklace and rings. It is

alleged that whilst running away from the spot, the accused also shot at one Abdul Karim Khan.

4. The learned counsel for the applicant submitted that there is no material on record to show the complicity of the present applicant in the alleged offences. He submits that the applicant had no role in the alleged offences and that in the identification parade, no witness has specified the role played by the applicant.

5. The learned APP opposes the bail application. He submits that there is sufficient material to show the complicity of the present applicant. He submits that apart from the confessional statement of the applicant recorded under Section 18 of the MCOC Act, there is recovery of a country-made katta and three live cartridges from his residence

under Section 27 of the Evidence Act. He submits that one Nokia mobile handset, a locket and cash of Rs.4,000/- were seized from the applicant. He further submits that five persons have identified the present applicant in the identification parade, as being present at the spot at the time of the incident.

6. Perused the charge-sheet. The confessional statement recorded under Section 18 of the MCOC Act reveals that the applicant had also attempted, though unsuccessfully, to fire at the deceased. Apart from the confessional statement, which prima facie shows the complicity of the applicant, there is other material, which is in the form of identification parade in which five witnesses have identified the present applicant. There is also recovery of a locket, a Nokia mobile handset and cash of Rs.4,000/- from the person

of the applicant, as well as recovery of a country-made katta and three live cartridges under Section 27 of the Evidence. Two persons were murdered in the said incident. It appears that there are 12 C.Rs which have been registered as against the applicant.

7. Considering the material on record, it cannot be said the applicant is not guilty of the alleged offences. This is not a fit case to enlarge the applicant on bail. The application is accordingly rejected.

8. The Trial Court to conduct the trial of the case on its own merits, uninfluenced by the observations made in the present order, which are prima facie in nature and only for deciding the present application.

9. The application is accordingly

sjs

15-BA-310.2015

disposed of.

10. A copy of this order be sent to the applicant, lodged in the Thane Central Prison, for his information.

(REVATI MOHITE DERE, J.)