

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.330 OF 2015**

Bharat Ragho Bhagat
Versus
State of Maharashtra

....Applicant.
...Respondent.

Mr. R.D.Suryawanshi, advocate for the applicant.
Ms. Rutuja Ambekar , APP for the respondent-State.
Mr. Prasad Borkar, advocate for the original complainant.
API Y.S.Salgude, attached to Vitthalwadi police station, Crime Unit-4
present.

CORAM : REVATI MOHITE DERE, J.

DATED : March 3, 2015

P.C.:

Heard the learned counsel for the applicant, the learned counsel for the complainant and the learned APP for the State.

2 By this application, the applicant seeks his enlargement on bail in connection with C.R.No.II-25 of 2014 registered with the Vitthalwadi Police Station, for the alleged offences punishable under Sections 302, 115, 120B of the Indian Penal Code and under Sections 3 and 25 of the Arms Act and under Sections 37(1) and 135 of the Bombay Police Act.

3 It appears from the prosecution case, that the FIR was registered on 7.11.2014 as against Mahesh Chandra Singh and Rahul Raghunath Sawant (Original Accused Nos.1 and 2 in the present C.R.) for the alleged offences punishable under Sections 3 and 25 of the Arms Act and under the Bombay Police Act as they were found in possession of pistol and chopper. It appears that during the investigation of the C.R.No.II-25 of 2014 registered with Vitthalwadi Police Station, it was disclosed to them that one Rama (Original Accused No.3) had hired them for committing the murder of one Pravin Patil. Pursuant to which, accused no.3 Rama came to be arrested on 9.11.2014. During the interrogation of the said accused Rama, it is alleged that the said accused disclosed that she had hired accused nos.1 and 2 i.e. Mahesh Chandra Singh and Rahul Raghunath Sawant, to commit the murder of Pravin Patil. Pursuant to the said information, accused no.4 Kanhaiyya Koli and accused no.5 Sadanand Jadhav came to be arrested. During the interrogation of Kanhaiyya Koli, it is alleged that the said Kanhaiyya Koli disclosed that the accused, who is the present applicant (Original Accused No.6) had agreed to pay Rs.7 lakhs to the accused no.4 for committing the murder of Pravin Patil, pursuant to which an amount of Rs.1.50 lakhs was paid to Kanhaiyya Koli by the applicant. Out of the said amount of Rs.1.50 lakhs, a sum of Rs.10,000/- was allegedly paid to Rama, who paid the said amount to accused nos.1 and 2.

4 The learned counsel for the applicant states that there is no evidence either direct or circumstantial as against the present applicant. He contends that the prosecution is only relying on the statements of the co-accused, which is clearly inadmissible in law. As far as the antecedents of the present applicant are concerned, the learned counsel for the applicant submitted that the applicant has been acquitted in 3 cases out of 4 cases and that one case has been compounded and as such as of today no cases are pending against him, save and except the present C.R.

5 The learned counsel for the complainant contended that there are details of call records to show that 5 calls were made by the present applicant to accused no.4 Kanhaiyya Koli in September. He further submitted that there is a long standing enmity between the applicant and Pravin Patil, and that the same is evident from the fact that , a false case was initiated by the applicant as against Pravin Patil, which ultimately ended in the acquittal of Pravin Patil. He submitted that a car was recovered at the instance of the applicant, which was used to show the place of residence and business of Pravin Patil to the accused.

6 Perused the charge-sheet and the material on record, as well as the 164 statements of Rama (Original accused no.2) and Sadanand

Jadhav (Original Accused No.5). There is no evidence of recovery of any weapon against the present applicant. The case is of contract killing. Except the statements of the co-accused, which are inadmissible in law, there is no evidence against the present applicant. Call detail records, prima-facie show that the said calls were exchanged between the applicant and Kanhaiyya Koli in the month of September, 2014. There are no audio recordings. The statements of the co-accused recorded under Section 164 of the Code of Criminal Procedure do not show complicity of the present applicant. As far as antecedents are concerned, the applicant is acquitted of the said offences. Considering the material on record and the fact that investigation is also over and charge-sheet is also filed, the applicant is entitled to be enlarged on bail on the following terms and conditions.

ORDER

- (I) The applicant be released on bail on executing PR Bond in the sum of Rs.2 lakhs with one or two sureties in the like amount.
- (II) The applicant shall not attempt to contact the complainant or any witness concerned with the present case.
- (III) The applicant shall attend Vitthalwadi Police Station between 9 a.m. to 10 a.m. and Crime Unit IV, Ulhasnagar between 11 am to 12 noon once in a month on the first Saturday of every month.
- (IV) The applicant shall co-operate with the conduct of the trial.

(V) The applicant shall inform his mobile contact number and his latest place of residence, immediately after his release and change of residence or mobile details, if any, from time to time to the Court seized of the matter as well as to the Investigating Officer of the Vitthalwadi Police Station.

(VI) If there is breach of any of the conditions, prosecution shall be at liberty to file an application for cancellation of bail.

7 The aforesaid observations are prima-facie and the learned judge shall decide the case on its own merits, in accordance with law uninfluenced, by the observations made in this order.

8 Application is allowed and is disposed of accordingly.

Parties to act on an authenticated copy of this order.

REVATI MOHITE DERE J.