

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.785 OF 2015

Meghraj Vilas Wahale

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.J.J. Bardeskar for the Applicant

Mr.S.S. Pednekar APP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **AUGUST 14, 2015**

P.C.:

1. The application is moved for bail as the applicant/accused is facing prosecution under sections 302, 341, 143, 147, 148, 149, 504 of the Indian Penal Code and under sections 41 and 27 of the Arms Act. The FIR was registered at the instance of one Gorak Chavan at C.R. No.72 of 2013 with the Paud police station, Dist. Pune. It is the case of the complainant that his brother Pappu was facing prosecution for the murder of one Sanjay @ Pantya marana. After 8 to 9 months, he was released on bail. However, he used to tell his brother that the friends or associates were after him and they wanted to take revenge and so he was scared in going anywhere alone. On 16.4.2013, the entire family of the complainant and their families friends went to a temple in the morning and while returning at 5.45pm, the Bolero jeep in which Pappu was sitting alongwith

his family members was surrounded by the applicant/accused and the co-accused. Pappu was pulled out and 9 to 10 persons circled around him. They were armed with sticks. They assaulted him by shouting that Pintya is dead and therefore he also needs to be dead. Due to shouts, some other people arrived there, therefore, the assailants ran away. Pappu was immediately shifted to hospital, however, he was declared dead. The offence was registered against the co-accused and the applicant/accused. The applicant/accused was arrested on 16.11.2013. Hence, this bail application.

2. The learned Counsel for the applicant/accused has submitted that the name of the applicant is not appearing in the FIR. It was registered on 17.4.2013. His name has appeared for the first time in the supplementary statement of Garakh Chavan, which was given on 27.7.2013. He further submitted that against him, there is no evidence except the evidence of recovery of his clothes i.e., shirt, pant, sickle on 19.11.2013. He submitted that the this Court by its order dated 29.1.2014 has granted bail to the co-accused Vaibhav Shelar, who is attributed a similar role and who was identified in the test identification parade. However, there is no such evidence of identification against the present applicant/accused.

3. Learned Prosecutor has opposed the application. He submitted that it is a case under section 302 and hence, bail should not be granted.

4. Perused the FIR dated 17.4.2013. The name of the applicant/accused is not mentioned as an assailant. His name is appearing in the supplementary statement which was recorded on 27.7.2013 i.e., after three months. At the instance of the applicant/accused, the recovery has taken place on 19.11.2013 and a shirt, pant, sickle were recovered. There is no other evidence against the applicant/accused. So also, this Court has granted bail to the co-accused, whose involvement is similar to the present applicant/accused.

5. In view of the above, it is a fit case to grant bail. Accordingly, the bail application is allowed on the following terms and conditions:

- i) The applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/-, with one or two sureties in the like amount;
- ii) The applicant shall not tamper with the evidence;
- iii) The applicant shall not indulge into any kind of offence, while on bail;
- iv) If the applicant/accused changes his address, he shall communicate all the details thereof including the contact number to the Investigating Officer.

- v) The applicant shall attend on all the Court dates.
- vi) In the event of breach of any of the above conditions, the prosecution will be at liberty to move an application before the Court for cancellation of bail.

(MRS.MRIDULA BHATKAR, J.)