

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1661 OF 2014

Walmik Poulas Jagtap

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Anil G. Lalla a/w Mr.Beerta H. Bajwa i/b Lalla & Lalla for the Applicant
Mr.S.S. Pednekar APP, for Respondent – State

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

DATE: **JUNE 9, 2015**

P.C.:

1. The applicant/accused is behind the bars since 24.6.2011 for the charges of committing offences punishable under sections 302, 201, 363, 366, 384, 143, 147, 148, 149, 120B, 463, 464 of the Indian Penal Code and under section 3(1)(ii), 3(2), 3(4) of the MCOC Act, 1999. It is a case of double murder of one Pravin Gondkar and Rachit Patni. The incident had taken place in village Shirdi, District Ahmednagar. A leader Papya Shaikh and members of his gang, who are the co-accused, had kidnapped the deceased persons as they wanted to settle their score with them and brought them on the land of the applicant/accused. The co-accused assaulted both the deceased with fist and kick blows and swords and other weapons. They were killed and their bodies were thrown on the road. The offence was registered at C.R. No.113 of 2011 at Shirdi police

station. The police arrested the applicant/accused on 24.6.2011. His application for bail was rejected by the Sessions Court. Hence, this bail application.

2. The learned Counsel for the applicant/accused has submitted that the name of the applicant/accused is not taken as an assailant by any witness. The applicant/accused was not present and is not connected even remotely with the commission of the crime. He pointed out that as per the case of the prosecution, the only involvement of the applicant/accused is very limited that at his instance, the ashes of the burnt clothes of the deceased were found on his land. The learned Counsel submitted that the land is an open land and so also there is a recovery of plastic mug, cable wire and a chair at his instance and the actual incident has taken place in his shed. He submitted that there is a confession of the co-accused i.e., Chingya @ Sameer Sayed, who has stated that the co-accused have assaulted and killed the deceased in the shed of this applicant/accused.

3. The learned Prosecutor relied on the statement of the Chingya and submitted that there is a recovery of the ashes of the clothes of the deceased at the instance of the applicant/accused and therefore, he is taken in custody and is facing charges under section 201 of the Indian Penal Code.

4. Perused the relevant statements and the documents. The names of the applicant/accused is not taken by any witness that he was present at the time of the assault. Further, no active role is attributed to the applicant/accused in the commission of the offences for which he is prosecuted. At the most, as submitted by the learned Counsel for the applicant/accused, there is some evidence under section 201 of the Indian Penal Code. He submitted that he is not connected with the offence. It appears prima facie that there is no material on record to show the involvement of the applicant/accused under sections 3 and 4 of the MCOC Act.

5. In view of the above, I am inclined to grant bail the applicant/accused as under:

- 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 or keep any contact with the accused persons or other persons of the gang.
- iii) The applicant shall not indulge into any kind of offence while on bail;
- iv) The applicant shall attend on all the Court dates.

- v) In the event of change of residence, the applicant shall furnish his address to the concerned police station.
6. Bail application is disposed of in the above terms.

(MRS.MRIDULA BHATKAR, J.)