

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2518 OF 2014

Sachin Sarjerao Garje	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. Pankaj D. Kavale, Advocate for the applicant.
Ms. Veera Shinde, APP for the respondent/State.
I.O. Mr. S.B. Suryawanshi, ACP, Panvel Division, Additional Port Division,
Navi Mumbai present.

CORAM : MRS.MRIDULA BHATKAR, J.
RESERVED ON : JUNE 25, 2015
PRONOUNCED ON : JULY 2, 2015

ORDER:

This Application is moved for bail, as the applicant/accused is prosecuted for the offences committed under sections 307, 201, 120B r/w. 34 of the Indian Penal Code, under sections 3, 25, 27 of the Arms Act and under section 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act in C.R. No. I-257 of 2012 registered with Kharghar Police Station. The informant is a jailer of Taloja Jail and the incident has taken place on 9th September, 2012 at 12.20 hours in front of grave yard near RAF office road at Kharghar.

2. It is the case of the prosecution that accused no. 5 Vikrant Deshmukh heads the gang. He and present applicant/accused are

imprisoned in Taloja Jail in C.R. No. 165 of 2011 of Navasheva Police Station under M.C.O.C. Act. The present applicant/accused and accused no. 7 Mahesh Shete fought with other inmates in the jail on 3rd September, 2012, at that time, complainant/Jailer Bhaskar Kachare used mild force and intervened and thereafter changed the barrack of applicant/accused and accused no. 7, so that law and order in the jail would be maintained. Because of this incident, applicant/accused and accused nos. 5 and 7 got angry and they decided to teach lesson to the complainant/jailer. They threatened in between and they conspired with accused nos.1, 2, 3, 4 scrupulously on cell phone and planned to eliminate the jailer. Pursuant to this conspiracy, on 9th September, 2012, accused no. 2 rode the motorcycle and accused no. 1 fired bullet on him. The complainant got injured. Thereafter the offence was registered. Hence, this Bail Application.

3. The learned counsel for the applicant/accused has submitted that there is no evidence of hatching conspiracy against the applicant/accused. The applicant/accused is already in prison. He cannot have any access with other person Vikrant Deshmukh. The case is bogus. He is falsely implicated out of vengeance. No element is available against the applicant/accused at the time of trial and therefore, he has to be bailed out.

4. Learned APP opposed the Application. He relied on the charge sheet and also the statement of co-accused recorded under MCOC Act.

5. Perused the FIR and the police papers. The statement of the complainant/jailer *prima facie* shows that the applicant/accused had motive to hatch conspiracy against the complainant. Attacking a public servant for the reason he performed his duty is a serious offence. There is recovery of pistol at the instance of co-accused. There are some incriminating circumstance against the accused. There is *prima facie* evidence to show that the applicant/accused is a member of gang of Vikrant Deshmukh and the persons who fired on the jailer are also the members of said gang. Considering the nature of the offence, this is not a case to grant bail. This has created terror in the mind of the jailer and other staff of the jail. Hence, the Application for bail is rejected.

(MRS.MRIDULA BHATKAR, J.)