

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2630 OF 2014

Rohit Vijay Jagdale.

... Applicant.

Versus

The State of Maharashtra.

... Respondent.

Mr. Niranjan Mundargi a/w. Mr. Vinayak R. Patil, advocate for Applicant.

Ms. Veera Shinde, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J

DATE : MARCH 11, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under Section 439 of the Code of Criminal Procedure, 1973. The applicant herein is arrested on 29/11/2013 in Crime No. 149 of 2013 registered at Sangli City Police Station for offence punishable under Section 302, 120(B), 201 r/w. 34 of the

Indian Penal Code and Section 3/25 of the Arms Act. Investigation is completed and charge-sheet is filed.

3 It is the case of the prosecution that on 28/11/2013 PSI of Sangli City Police Station lodged a report at the police station contending therein that PSI Deshmukh had informed him that a history sheeter Deepak Kalgonda-Patil has been murdered. Upon receipt of the said information of the said information, the first informant alongwith police personnel had been to the spot. The relative of Deepak Kalgonda-Patil namely Nikhil Rajendra Nanduragi had also reached the spot. The police had taken him to the hospital where Deepak Kalgonda-Patil was declared dead. The offence was registered against unknown persons. Investigation was set in motion.

4 Perused the papers of investigation. It prima facie appears that the compilation of the charge-sheet includes mostly statement of police officers. It is alleged that after arrest of the present applicant one of the witness, on his own, informed the police that the applicant

had called upon him. It is alleged that on 1st December, 2013 Vinayak Vibhute had informed the police that on 28/11/2013 in the evening the present applicant had called upon the said witness on his cell phone and had informed him that he has caused homicidal death of Deepak Kalgonda-Patil. Similar statement was also made by Yogesh Pawar. Sanjay Patil who is one of the witness has stated that he had heard about the conspiracy while the applicant was discussing on the road.

5 Besides alleged extra judicial confession made through the witnesses, there is no incriminating material against the present applicant. It is a matter of record that the said statements were made only after the arrest of the present applicant and that it was known to all concerned that the applicant has been arrested for causing homicidal death of Deepak Kalgonda-Patil.

6 Investigating Officer is present in the court. In spite of the fact that the witnesses have given their cell phone number, there has been

no enquiry into it to substantiate that the applicant had called upon the witnesses and informed him on the phone about the alleged incident.

7 The applicant has been in jail for more than one year. In view of the above observation, the applicant has made out a prima facie case for grant of bail.

8 The observations made hereinabove are prima facie in nature. The same shall not be considered at the time of deciding the application for discharge or for quashing of FIR or at the time trial.

9 Hence, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) In Crime No. 149/2013 registered at Sangli City Police Station, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- and one or two sureties in the like amount.

(iii) The applicant shall report to the concerned police station on first Sunday of every month till conclusion of the trial.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)