

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE – CRIMINAL
BAIL APPLICATION NO.2704 OF 2014

Sadanand Balkrishna Jadhav	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. R.D. Suryawanshi for the applicant
Mrs. G.P Mulekar, APP for the Respondent -State.
Mr. Yuvraj S. Salgude, API, Ulhasnagar, present.

CORAM: P.D. KODE, J.

DATED: JANUARY 20, 2015.

PC:

1. By this application accused No.5 in charge-sheet submitted by Vitthalvadi police station against the Applicant and five other charge-sheeted accused for commission of offences under sections 302, 115 and 120 B of the IPC r/w sections 3 and 25 of the Arms Act r/w sections 37(1) and 135 of Bombay Police Act, has prayed for bail.

2. Perusal of the charge-sheet reveals the prosecution case to the effect that the charge-sheeted accused No.6, due to his earlier rivalry with one Pravin Patil resident of Neral, had hired the charge-sheeted accused No.4 Kannaiyya Koli for killing said Pravin Patil and out of agreed amount of Rs.7,00,000/- to be paid for said purpose, had given an amount of Rs.1,50,000/- as a token amount. Accused No.4

thereafter conspired with the Applicant and further alongwith accused No.3, accused No.2 and accused No.1 and discussed about the plan in a tea hotel near Shriram Talkies and for achieving the object of the criminal conspiracy hatched. In the party office of charge-sheeted accused No.3, accused No.3, accused No.4, accused No.2 and accused No.1 as discussed and agreed, accused No.2 and accused No.1 for murdering Pravin Patil had possessed country made revolver, one cartridge and one chopper in contravention of proclamation issued by Commissioner of Police, Thane City and committed breach thereof.

2. Mr. R.D. Suryawanshi, learned counsel for the Applicant submitted that the charge-sheet does not contain any material for reasonably coming to the conclusion of existence of such a conspiracy or act / overt act allegedly committed by co-conspirator being in pursuance of said conspiracy. It is thus, submitted that due to paucity of any such material the Applicant is entitled for bail.

3. Learned APP opposed the prayer for bail on the ground of charge-sheet containing material against the Applicant of having acted as agreed and having shown house of Pravin Patil to other co-conspirators. In said context, learned APP has drawn attention towards the statement of Suresh Kalan. It is submitted that the prosecution is also possessing material showing that during the relevant period the

Applicant and co-accused were in touch by means of Mobile phones.

4. It is an admitted position that no offence in pursuance of the conspiracy allegedly hatched was committed. Without referring to the material in detail regarding the over acts committed by other accused, it can be safely said that even accepting the material in the charge-sheet as it is, the same by itself prima facie does not show existence of the conspiracy, as alleged. Having regard to it, the act allegedly committed by the Applicant i.e. showing house of Pravin Patil to one lady and four persons of whom identity is also not established by any other material in the charge-sheet, clearly appears to be of innocuous nature.

5. Resultantly, there being no material in support of the prosecution case, at least against the Applicant, he is entitled for bail.

6. Hence, the Applicant is directed to be released on bail in C.R. II-25 of 2014 registered with Ulhasnagar Police Station, District Thane on furnishing P.R. Bond in the sum of Rs.1,00,000/- (Rupees One Lakh only) with one or two sureties to make up like amount and subject to conditions that after his release the applicant shall (i) stay at the address mentioned in the application and shall not change the same without permission of the Court; (ii) attend the I.O. on every alternate Monday in between 11:00 a.m. to 1:00 p.m. until further order; (iii)

additionally shall attend the I.O. on the particular date on which he would be summoned by the I.O. for the purposes of investigation; (iv) not indulge in activity of tampering, threatening, coercing, intimidating or pressurizing the prosecution witnesses in any manner; (v) not, directly or indirectly, make any inducement, threat or promise to persons acquainted with the facts of the accusation against him so as to dissuade them from disclosing such facts to the Court or to any police officer; (vi) not misuse the bail granted vide this order for fleeing away or for committing any further offence.

6. The application accordingly stands disposed of.

(P.D. KODE, J.)