

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 354 OF 2015

Mr.Vikrant @ Bala Baban Hinge.

...Applicant.

vs.

The State of Maharashtra.

...Respondent.

Mr. A.P. Mundergi, Senior Advocate i/by Pankaj Kavale for the Applicant.

Mr. PP Shinde, APP for the State.

Mr. Ahmed Pathan , PI from Navi Mumbai Police Station present in Court.

CORAM : A.S.GADKARI, J.

DATE : 23rd February, 2016

P.C.

This is an application under Section-439 of the Code of Criminal Procedure. The applicant is seeking bail in CR No. I-76/2013 dated 24.6.2013 registered with NRI Police Station, Navi Mumbai under Section 302, 120(B) read with 34 of the Indian Penal Code and under Section 37(1) and 135 of the Bombay Police Act.

2) The date of incident is 24.6.2013. The name of the deceased is Balasaheb Kisan Choudhary. The first information report is lodged by the son of the deceased namely Ashok Balasaheb Choudhary. It is the prosecution case that accused No.1 Vikas Auti and deceased Balasaheb Choudhary were on loggerheads due to the dispute arising out of the Maharashtra State Mathadi Transport Union. It is the further prosecution case that accused No.1 Vikas Auti was removed from the said union as he had committed misappropriation of the funds and for dereliction in the duty. That, on 24.6.2014 at about 10-00p.m. Accused No.1 Vikas Auti assaulted the deceased Balasaheb Choudhary with a knife. Shri. Balasaheb Choudhary succumbed to the injuries while taking treatment. During the course of investigation, it was revealed that accused No.3

namely Kaluram Sasane procured the knife from Shafiq who was running mutton shop and gave it to accused No.1 Vikas Auti. As far as present applicant is concerned, it was revealed during the course of investigation that is one of the conspirators in the present crime. After completion of investigation, police have filed the charge sheet.

3) Heard Shri. Mundergi the learned Senior Counsel for the applicant and the learned APP and with their able assistance perused the entire charge sheet.

4) The witnessess namely Yogesh Kudale and Tanmay Nandgaonkar have stated that on 29.5.2013 when they were proceeding by a jeep to the native place of accused No.1 Vikas Auti, the accused No.1 Vikas Auti asked the said witness namely Tanmay Nandgaonkar to procure a weapon as he wanted to kill Balasaheb Choudhary. He also stated that he is having long standing enmity with Balasaheb Choudhary. Both the said witnesses have stated that the applicant was one of the occupants in the said jeep. On the basis of these statements it is alleged by the prosecution that the applicant was a member to the alleged conspiracy.

5) The witnesses namely Manoj Hase and Vasant Hase in their statements have stated that after the accused No.1 Vikas Auti assaulted the deceased Balasahib Choudhary, the applicant came at the spot and told the said witnesses that they will take Balasaheb Choudhary to the hospital.

6) This is the material available against the applicant in the form of statements of the witness. After taking into consideration the statements of the witnesses as stated above, at this stage, it is difficult to hold that the applicant was a party to the alleged conspiracy. It prima facie appears that, it is the accused No.1 Vikas Auti who was expressing his own desire to the occupants of the said Jeep and the applicant was a silent listener to the same.

7) In view of the above, I am of the opinion that the applicant has made out a case for his release on bail. Hence, I pass the following order.

ORDER

- a) The applicant be released on bail in CR No.I-76/2013 registered with NRI Navi Mumbai Police Station, Navi Mumbai on his furnishing PR bond of Rs.50,000/- with one or two solvent local sureties in the like amount.
- b) After release from Jail, the applicant shall attend NRI Police Station Navi Mumbai on every 1st Monday of the month between 1.00 a.m. to 1.00p.m. till the conclusion of the trial.
- c) The applicant shall attend all the dates before the Trial Court.
- d) After his release the applicant shall furnish proof of his residential address and his mobile number if any to the NRI, Navi Mumbai Police Station and also to the Trial Court.
- e) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)