

Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 293 OF 2016

Nibin s/o Vijaydharan Pille Vs. The State of Maharashtra & Anr.

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
--	---------------------------

Mr C.K. Pendse a/with Akshay Gosavi i/by GMS Legal for the applicant.
Ms Rutuja Ambekar, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 29th February, 2016

P.C.

1) The applicant is seeking bail in CR No. I-74/2015, dated 19.1.2015 registered with Mumbra Police Station, Mumbai under sections 302, 143, 144, 147, 148, 149 read with Section 120 (B) of IPC, with section 3 (25) of the Arms Act and under section 37 (1) (3) and 135 of the Bombay Police Act.

2) The date of incident is 19.1.2015. The name of deceased is Sandip Waman Patil. It is the prosecution case that the accused no.1 Nagraj Patil and his brother co-accused Kedar Patil were having dispute with the deceased Sandip Waman Patil pertaining to lands bearing survey No. 78,79 and 80 situated near the creek of village Diva, District Thane. That the accused persons namely Nagraj Patil and Kedar Patil in conspiracy with other accused persons namely Suraj Shah, the applicant

and other three to four persons attacked the deceased on 19.1.2015 between 9:30 to 9:45 a.m. with the aid of swords and chopper. It is the further the prosecution case that the co-accused Nagraj Patil and the present applicant fired at the deceased from pistols. The deceased Sandip was declared dead before admission to the hospital. During the course of investigation, the police have recorded statements of various witnesses and have also conducted the test identification of the accused persons. After completion of investigation the police have filed the charge-sheet.

3) To show the complicity of the present applicant in the present crime, the prosecution has relied upon seizure panchnama dated 2.2.2015 effected at the instance of the applicant. By the said panchnama the clothes which were allegedly on the person of the applicant and other three accused persons namely Nagraj Patil, Kedar Patil and Suraj Shah were discovered at the instance of the applicant. By the same panchnama, a Honda motorcycle bearing No.MH-05-AT-2649 was also recovered at the instance of the applicant. It is to be noted here that the first informant in his report has categorically named two accused persons Nagraj Patil and Kedar Patil and has stated that there were seven to eight other persons with deadly weapons at the scene of offence. The other eye-witnesses have also not named the applicant as the person who was accompanying the accused persons at the scene of offence. In the test identification parade the witness Waman Patil, the father of deceased

Sandip Patil has failed to identify the present applicant. It further appears from the record that there is no other witness, who has identified the applicant as the person, who was with the aforesaid motorcycle at or near the scene of offence and from the said motorcycle the applicant helped the other accused persons to flee away from the scene of offence. In view of the same, the applicant has made out a case for his release on bail.

4) Hence, the following order :

ORDER:-

- (a) The applicant shall be released on bail in CR No. I-74/2015 registered with Mumbra Police Station, Mumbai on his furnishing a PR. bond of Rs.50,000/- with one or two solvent local sureties in the like amount;
- (b) The applicant shall furnish the documents pertaining to his proof of residence to the Mumbra Police Station and also to the Trial Court. The applicant shall also give mobile number, if he so possess;
- (c) After release from jail, the applicant shall attend Police Station on every 1st and 3rd Monday of the month between 10:00 a.m. to 12:00 noon till the conclusion of trial;
- (d) The applicant shall not tamper with the evidence and/or influence the witnesses;
- (e) The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)