

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. BAIL APPLICATION NO. 621 OF 2016

Shri Pralhad Pandurang Patil

... Applicant.

V/s.

The State of Maharashtra

... Respondent.

Mr. M. K. Kocharekar, Advocate for the Applicant.

Mrs Veera Shinde, A.P.P. for the Respondent – State.

PI-Mr. Suresh H. Varade (Alibag Police Station, Raigad) is present.

CORAM : A. M. BADAR, J.

DATE : 18th JULY, 2016

P.C. :

1 The Applicant/accused in Crime No. 158 of 2015 for the offences punishable under sections 302, 324 of the Indian Penal Code and under section 3(a) of Indian Explosives Substance Act, 1908, registered with Alibag Police Station Dist. Raigad, by this application is praying for releasing him on bail.

2 Heard the learned counsel appearing for the Applicant/accused. He argued that except text messages and N.C. Report there is no evidence to connect the applicant to the crime in question.

3 The learned APP opposed the application by contending that the applicant was having strong motive to eliminate Nitesh Patil. Learned APP pointed out the statements of witnesses - Panpatil as well as the lady police constable and argued that as the present applicant was jealous of Nitesh Patil and his affair with the said lady police constable, the applicant/accused had planted explosive substance in the motorcycle of deceased- Nitesh and committed his murder.

4 According to the prosecution case, deceased-Nitesh Namdeo Patil was posted as police constable at Shrivardhan Police Station. Informant-Ratnakar Prabhakar Nage is also the police constable posted at Mahad MIDC Police Station, Dist. Raigad. They both were deputed to Alibag for 15 days Refresher Course. On 28.10.2015, after first sessions of the Refresher Course, deceased-Nitesh and Ratnakar returned to the rest house. After changing their clothes, they were to proceed to the mess for having lunch. Nitesh Patil was about to kick start the motorcycle for going to the mess at that time, there was explosion. Nitesh Patil succumbed to injuries caused in the explosion on the spot. Informant-Ratnakar Nage suffered minor injuries.

5 According to the prosecution case, prior to his marriage deceased- Nitesh was having an affair with one woman from his village and with one police constable working

with him at Alibag Police Headquarter. Ultimately, deceased-Nitesh married said woman from the village. After marriage, intimacy of deceased-Nitesh with the lady police constable continued. The present applicant/accused is also working as police constable. Nitesh Patil was subsequently transferred to Shrivardhan Police Station, whereas the said lady police constable as well as present applicant at the time of incident were posted at Khalapur Police Station and that they were residing in the same building.

6 According to the prosecution case, the present applicant/accused got involved in the said lady police constable during his tenure at Khalapur Police Station. He was insisting that lady police constable not to keep contact with Nitesh. According to the prosecution case, on 23.07.2015, the present applicant saw that lady police constable alongwith Nitesh on motorcycle at Khopoli market area and thereafter the applicant abused the lady constable and threatened her.

7 According to the prosecution case, because of his one side love affair with the lady police constable, the present applicant/accused planted explosive in the motorcycle of Nitesh Patil on 28.10.2015 and when Nitesh attempted to kick-start the motorcycle, there was explosion, causing death of Nitesh Patil.

8 So far as motive is concerned, the prosecution case show that the investigating officer has seized a chit allegedly written by the present applicant which was handed over by him to witness Prashant Panpatil. This witness sent the text message in the chit to the cell phone of the Superintendent of Police, Alibag. The text message is to the effect that the Superintendent of Police should keep vigil on the trainees deputed for Refresher Course, as trainees are involved in various illegal activities. Similarly, the investigating officer has also collected the report of N.C. Case lodged by Nitesh, wherein Nitesh alleged that he received abuses telephonically from an unknown number. According to the prosecution case, this is the same cell phone, which was given by the present applicant/ accused to witness-Prashant Panpatil. This material collected by the investigating officer, prima facie, to show that the present applicant had inclination towards said lady police constable, who was involved in deceased - Nitesh Patil and as such had every reason to eliminate said Nitesh Patil.

9 So far as the offence under section 302 of the Indian Penal Code is concerned, during the investigation, search of the house of the present applicant was conducted and the black colour plastic bundle of tape came to be seized. Dicky of the motorcycle of the applicant, consisting some liquid as well as some solid substance also came to be seized.

According to the prosecution case, as reflected in the remand report filed with the chargesheet, spark plug of the motor cycle of the deceased was found to be having black tape wrapped to it. Seized articles were subjected to the chemical analysis. The C.A. Report shows that no explosives were detected either on the contents of the dicky of motorcycle or seized black colour tape. In case, based on circumstantial evidence, the motive provides one more link to the chain of circumstances. In the case in hand though there is prima facie evidence of a movie with the applicant, there is no prima facie evidence to show that the applicant had planted explosive in the motorcycle of the deceased, causing his death in explosion

10 Considering this nature of the evidence against the present applicant, his pre-trial detention as such is not warranted and therefore, the following order :

ORDER

- i. The bail application is allowed.
- ii. The applicant/accused in Crime No. 158 of 2015 for the offences punishable under sections 302, 324 of the Indian Penal Code and under section 3(a) of Indian Explosives Substance Act, 1908, registered with Alibag Police Station Dist. Raigad, be released

on bail on executing PR Bond in the sum of Rs. 10,000/- and on furnishing solvent surety in the like amount.

- iii. As a condition of this order, the Applicant to stay away from the territorial limits of Khalapur Police Station, Khalapur during pendency of the trial against him.
- iv. The Applicant should co-operate with the trial court in expeditious disposal of the trial.
- v. In addition, the Applicant/accused is directed that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade such person from disclosing such facts either to the Court or to any police officer and that applicant shall not tamper with the prosecution evidence in any manner.
- vi. The applicant should not commit any offence of similar nature in future.
- vii. The bail application is disposed of accordingly.

(A. M. BADAR, J.)