

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1360 OF 2015

Rajesh Jiledar Singh	...	Applicant
Vs.		
The State of Maharashtra & Anr.	...	Respondents

Mr. Chaitanya Pendse a/w. Mr. Prashant Pandey i/b. Mr. Ranjit Ade,
Advocate for the applicant.
Mrs. Rutuja Ambekar, APP for the State.
Mr. R.D. Suryawanshi, Advocate for the respondent no. 2.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **30th March, 2016.**

P.C.:

This Application is moved for bail, as the applicant/accused is facing charges under sections 302, 120B r/w. 34 of the Indian Penal Code and under sections 3, 25 of the Arms Act. The offence is registered at the instance of Amol Kashinath Patil, who has stated that deceased Praful Patil was his brother and corporator of one political party. He was socially and politically active and was prohibiting and demolishing illegal constructions, therefore, some developers had animus against him. On 8th May, 2010 in the morning when Praful Patil went to supervise the construction of Abhinav Education Institute, on the campus of the school he was shot with firearms and was assaulted with sharp edged weapons. Hence, the complaint was given and the offence is registered at C.R. No. I-58 of 2010 with Navghar Police Station on 8th May, 2010. The applicant/accused was

arrested on 2nd June, 2012.

2. The learned counsel for the applicants/accused has submitted that there is no case against the applicant/accused. He is innocent. He is falsely implicated in the present case. The learned counsel submitted that accused Vishal Mhatre is released on bail by the learned Sessions Judge and the said order was challenged by the State before this Court and this Court has confirmed the said order. The learned counsel submitted that on the basis of parity also, the applicant deserves bail. The learned counsel further submitted that as per the case of the prosecution, the applicant/accused is not involved in the actual assault. His name is not mentioned in the FIR, however, the name of Vishal Mhatre, who is granted bail, is mentioned. There is a statement of one Raju Sesnarayan Mishra on the point of conspiracy. However, his statement before the police is different than his statement recorded under section 164. The learned counsel submitted that police have recovered pistol from the applicant/accused, however, the said memorandum is ex-facie bogus. He submitted that the police officer who drew memorandum was not on duty on that day and at the relevant time. The names of other police officers, who are shown as members of the party who proceeded for the recovery at the instance of accused are also false, as the applicant/accused has taken

information under the Right to Information Act that the police officers were not shown on duty at that time. The evidence of motive collected by the police is doubtful. Hence, the applicant/accused be released on bail.

3. Learned APP opposed this Bail Application. She relied on the statement of Raju Sesnarayan Mishra who has stated that conspiracy was hatched in the office of Rajesh Singh. The police have collected evidence on the point of motive that the deceased stopped the construction of unauthorised structures by the applicant/accused and therefore, the applicant./accused wanted to eliminate the deceased. She relied on the report of ballistic expert which disclosed that the cartridge which hit the deceased was fired from the same pistol which was recovered at the instance of applicant/accused. She further relied on the CDR collected by the police showing that there were continuous communication between the assailants Ajay Pandey, Rasul, applicant/accused and Vishal Mhatre.

4. Perused the FIR, statement of Raju Mishra and other persons. Verified call details report of the cell phone of applicant/accused and co-accused Ajay Pandey and Rasul on 8th May, 2010. The incident of assault has taken place on 8th May, 2010 at around 8.15 hours. Immediately thereafter there was communication on the cell phone of applicant/accused

of Ajay Pandey, Rasul and Vishal Mhatre. It is true that the name of applicant/accused is not taken by the complainant or eye witnesses, as he was admittedly not present on the spot. It is a case of conspiracy. On this point, in the statement of Raju Mishra, he has given a specific role to the applicant/accused. His statement under section 164 was recorded before the J.M.F.C., Thane on 20th September, 2010 when the applicant/accused was absconding and not arrested. The applicant/accused was absconding for 2 years and was arrested on 2nd June, 2012. Thereafter within a week, i.e. 10th June, 2012 a pistol was recovered at his instance. The submissions of learned counsel for the applicant/accused is on the basis of the information from Right to Information Act which he has procured about the duties of the officers who drew seizure panchnama cannot be considered as a circumstance which will demolish the case of the prosecution. This fact will be matter of consideration at the time of trial. The deceased was an elected corporator and who was active against unauthorized constructions and the applicant/accused, as per the case of the prosecution was in the business of construction.

5. The prayer of parity cannot be considered because the evidence against the applicant/accused and Vishal Mhatre is not the same. The observation of learned Sessions Judge that the meeting was called by the

applicant/accused in his office and it was attended by main offender Ajay Pandey and the applicant/accused was leading the subject and object of the meeting is correct. *Prima facie* the applicant/accused is involved in the case and he has taken active role in eliminating the deceased. Therefore, I reject the Bail Application of the applicant/accused.

(MRIDULA BHATKAR, J.)