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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1442 OF 2016

Nikhil Nandu Botre	 Applicant
V/s.	
The State of Maharashtra	 Respondent

Mr. Satyavrat Joshi, for the Applicant.
Mr. Deepak Thakre, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 5th AUGUST, 2016.

P.C. :

1. The applicant/accused Nikhil Nandu Botre, in C.R.No.610 of 2015, registered at Chakan Police Station, District: Pune, for the offence punishable under Sections 302 and 120(B) of the Indian Penal Code read with Section 4(25) of the Arms Act, at the instance of Amol Londhe, by this application is seeking his release on bail.
2. The learned counsel for the applicant /accused argued that co-accused Swapnil Shinde with similar allegations, has already been released on bail, by this Court. The learned counsel further argued that name of the present applicant is not figuring in the F.I.R., nor witnesses Chand Mohamed Hasan Shaikh, Ganpati Kodamangal and Hanumant

Mundkar, have named him. In the test identification parade, the witnesses have not identified the present applicant.

3. The learned APP opposed the application by pointing that the accused persons conspired and murdered Harshal Borade. There is recovery of blood stained clothes at the instance of the present applicant.

4. Perused the F.I.R. lodged by Amol Londe. The F.I.R. shows that the incident in question happened on 18th December, 2015. Some known and some unknown accused killed Harshal Borhade as seen from the F.I.,R. lodged by Amol Londe.

5. According to prosecution case, earlier there was a murder of a person named as Santosh Walke. Deceased Harshal Borhade was one of the accused in that murder case. Harshal Borhade, was thinking of turning as approver. According to prosecution case, Harshal Bordhade was telling other witnesses that Mahalungkar and other 10 to 15 persons had threatened him for prohibiting him from turning approver in the murder case of Santosh Walke. This is stated to be the motive behind the crime in question.

6. The F.I.R. shows that on 18.12.2015, when the informant Amol and Harshal Borhade (since deceased) were proceeding by the motorcycle from Mhalunge bifurcation, four wheeler vehicle came, four persons alighted from that car. They were Abhijit and Dhanesh @ Dam

Temkar. Two persons were unknown to informant Amol,. They were assaulting Harshal Borhade, by means of Koyata and killed him on the spot. The incident happened in presence of informant Amol. Post event happening are stated to be witnessed by Chand, Ganpati and Hanumant. The prosecution has conducted test identification parade, wherein witnesses have not identified the present applicant as one of the assailant. He is neither named in F.I.R. nor by the witnesses. The only evidence available against him is recovery of blood stained clothes.

7. Considering the nature of evidence against the present applicant and as co-accused with similar offence is already released on bail. The application deserve to be allowed with the following order.

Order

- I) The application is allowed.
- II) The applicant arrested in connection with above offence, be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- and on his furnishing surety in the like amount.
- III) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.
- IV) The applicant shall attend the trial scrupulously and shall co-operate the trial Court in expeditious disposal of the case.
- V) The applicant shall not tamper with the prosecution

evidence in any manner.

VI) The applicant should not commit any offence of similar nature in future.

[A. M. BADAR, J.]