

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

CRIMINAL BAIL APPLICATION NO. 1834 OF 2015

Mr. Ashwin Suryakant Bhandalkar ..Applicant

v/s.

The State of Maharashtra. ..Respondent

Mr. A.H.H.Ponda i/b. Harshwardhan Akolkar for the Applicant

Mr. D.P.Adsule, APP for the Respondent-State.

Mr.S.M.Hande, Police Constable, Ghodegaon Police Station, Pune present.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : FEBRUARY 08, 2016.**

P.C.

1. This is an application for bail filed by the aforesaid applicant who is facing trial in Sessions Case No. 40 of 2015 arising from C.R.No. 22 of 2015 registered with Ghodegaon Police Station, Pune for offences punishable under Section 302, 120(B) & 201 of the Indian Penal Code and presently pending before the Addl.Sessions Judge, Khed, Rajguru Nagar.

2. The case of the prosecution in brief is that on 20.3.2015 some

unknown persons had caused death of one Mahesh Bhagwat. The applicant along with others was arrested on 21.5.2015. The crime was investigated and upon completion of investigation chargesheet was filed and the case being Sessions Triable, the same was committed to the court of Sessions, Khed. The applicant had filed application for bail which came to be rejected by the Addl. Sessions Judge, Khed -Rajgurunagar vide order dated 4.9.2015. Hence the present application.

3. Mr. Ponda, the learned counsel for the applicant submits that apart from the fact that the deceased had earlier killed the brother of the complainant and the CDR records between the applicant and the co-accused Ganesh Shelke, there is absolutely no material on record to indicate that the applicant is involved in hatching the conspiracy or causing death of the brother of the said Mahesh Bhagwat. The learned Counsel for the applicant has further submitted that the deceased was a history sheeter and he was involved in committing several murders and that the fact that the deceased had committed murder of the brother of the applicant about 4 years prior to the incident would not prima facie indicate that the applicant had

motive to cause death of the deceased.

4. The learned APP submits that the call records prima facie indicate that the applicant was in touch with the co-accused Ganesh, who in turn was in contact with the main assailant Vishal. The learned APP further submitted that the CDR records coupled with the fact that the deceased was earlier involved in causing death of the brother of the applicant is prima facie sufficient to link the applicant with the crime.

5. I have perused the record and considered the submissions advanced by the learned Counsel for the respective parties. The records prima facie reveal that one Bhanudas Pawar, PSI, had lodged the FIR dated 21.3.2015 stating that he had received information that one person was lying on the road leading to Kurwandi, in the injured condition. He had visited the scene of offence and seen one person lying on the road in a pool of blood. He had sustained injuries on the chest and other parts of the body. He had also received information that one motor cycle bearing No. MH 14 BZ 7771 had met with an accident and that the riders and the others had fled away from the spot of the incident leaving the weapons such as

chopper, satur (sword) wooden sticks etc. PSI, Bhanudas Pawar, therefore lodged the FIR against the unknown persons for causing death of another person whose identity was not established. Pursuant to the said FIR crime came to be registered.

6. The records indicate that the deceased had murdered the brother of the applicant in the year 2011. Apart from the alleged motive, the only other material on record is in the form of CDR; a perusal of which indicates that the applicant had made several calls to the co-accused Ganesh Shelke from the month of January 2011 onwards. The applicant and Ganesh are stated to be friends. The call records indicate that the applicant had not only made calls before the date of the incident but had made several calls to said Ganesh from January 2015 till 20.3.2015. Hence, the CDR records, in my considered view would not prima facie link the applicant with the crime.

7. The learned APP, under instructions from the Investigating Officer concedes that apart from the said two circumstances, viz. Murder of the brother of the applicant by the deceased and the CDR records, there is no other incriminating material to link the applicant

with the crime. The nature of allegations and the supporting material, in my considered view is not prima facie sufficient to show the involvement of the applicant with the aforesaid crime. The applicant is therefore entitled for bail. Hence the application is allowed on the following terms and conditions:

- i) The applicant Ashwin Bhandalkar, arrested in 22 of 2015 registered with Ghodegaon Police Station, be released on furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one solvent surety in the like amount to the satisfaction of the learned Sessions Judge, Khed- Rajgurunagar, Pune.
- ii) The applicant shall not interfere with the complainant or the other witnesses in any manner.
- iii) The applicant shall not leave Pune District without prior permission of the learned Sessions Judge, Khed, Rajgurunagar., for a period of six months.

(ANUJA PRABHUDESSAI, J.)