

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1922 OF 2016

Jawahar Chellaram Bijlani @ Suresh BijlaniApplicant

V/s.

The State of MaharashtraRespondent

WITH
CRIMINAL APPLICATION NO. 826 OF 2016
IN
CRIMINAL BAIL APPLICATION NO. 1922 OF 2016

Sandeep Sunil KumarIntervener

IN THE MATTER BETWEEN

Jawahar Chellaram Bijlani @ Suresh BijlaniApplicant

V/s.

The State of MaharashtraRespondent

Mr. Shirish Gupte senior counsel i/b Mr. Aamir M. Shaikh Advocate for Applicant.

Mr. Himanshu Kode for Intervener

Mr. S. S. Pednekar APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : OCTOBER 15, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicant herein was arrested in crime no. 67 of 2013 for offence punishable under section 302, 120 (B), 201 r/w 34 of the Indian Penal Code. While he was in custody and was lodged in Thane Jail, crime no. 58 of 2014 is registered against the present applicant initially for offence punishable under section 120 (B) r/w 302 r/w 115 of the Indian Penal Code. It was apparent that there was no death in the present case nor there was an attempt and therefore section 302 of the Indian Penal Code was deleted. Investigation is completed and charge-sheet is filed in crime no. 58 of 2014.

2) It is the case of the prosecution that on 13/12/2013, Commissioner of Police, Navi Mumbai called upon the first informant and had informed him that he has learnt from reliable sources that the present applicant in connivance with the co-accused is likely to cause danger to the life of the first informant i.e. Sandeep Loharia. The first informant was also informed by the Commissioner that he is being given police protection and that he should take care of himself. From the office of the Commissioner of Police, Navi Mumbai, first informant had also learnt that on 05/12/2013, one Rupesh Singh was arrested by the police in some offence and in the course of investigation,

he had disclosed that while he was in jail, he had been approached by the co-accused of the present applicant namely Amolik to attack the first informant on the ground that he was opposing the grant of bail application in favour of the present applicant. The first informant, hence lodged a report at Thane Nagar Police Station against the present applicant, Emanuel Amolik, Sanjay Birajdar @ Sanjay Patil, Rupesh Singh, Mahesh Bijlani, Anurag Garg, Surya Agarwal. It is pertinent to note that except Rupesh Singh and Sanjay Birajdar all other accused in crime no. 67 of 2013.

3) It is pertinent to note that upon receiving the secret information, Commissioner of Police had not set law into motion nor had registered the offence against the present applicant or the co-accused but had instead called upon the first informant and informed him about the same.

4) It has transpired in the course of investigation that co-accused of the present applicant, Amolik had given a chit in jail to one Mehendi Hasan and had asked him to call upon Sanjay Birajdar @ Sanjay Patil to meet him in Thane court premises when he attend the dates. There are witnesses who had seen Emanuel Amolik talking with Sanjay Birajdar and the other persons. Since the motive was attributed to the present applicant, he was also made an

accused and the reason was that the son of the deceased Sunil Kumar Loharia opposing the bail application by the present applicant.

5) The learned senior counsel rightly submits that in the entire compilation of the charge-sheet as well as the conclusion drawn by the investigating officer, no case is made out against the applicant that he had actually contacted either Mehendi Hasan or Sanjay Birajdar. Investigating officer had recorded the statements of witnesses who had stated that a message was being sent to the first informant that he should refrain from opposing the bail application or else would face dire consequences.

6) The steps taken by the Commissioner of Police, Navi Mumbai just cannot be accepted or approved. In fact, it was incumbent upon the Commissioner of Police to take appropriate steps.

7) The learned APP submits that it is true that a misrepresentation was made before Sessions Court by the Advocate for the complainant that application filed by the present applicant seeking enlargement on bail was rejected right up to the Hon'ble Apex Court. However, in fact, it had reference to enlargement on bail in crime no. 67 of 2013 and not 58 of 2014. The learned APP has placed on record the copy of the Rozanama in Sessions Case

No. 48 of 2015 not crime no. 58 of 2014. It appears from the Rozanama that the charge is framed against the present accused on 14/06/2016 and on 17/09/2016 witness summons have been issued. The next scheduled date for recording of evidence of the complainant is 18/10/2016. The learned APP rightly submits that trial has commenced and therefore, it would not be appropriate to enlarge the applicant on bail. In any case, enlargement on bail in crime no. 58 of 2014 would be futile for the simple reason that the accused is already in jail in crime no. 67 of 2013 where application has been rejected on merits by the Hon'ble Apex Court.

8) It is in these circumstances that the applicant does not deserve to be enlarged on bail in the present case, mainly on the ground that the trial has commenced and that he would not be set at liberty even if he is granted bail.

9) Hence, application stands rejected.

10) Intervention application is heard, allowed and disposed of.

(SMT. SADHANA S. JADHAV, J.)