

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2497 OF 2015

Datta Arjun Chavan

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr. Satyavrat Joshi, Advocate for the Applicant

Mrs. A.A. Mane, APP for Respondent – State

Mr. Digambar Jakhade, P.S.I., Swargate Police Station, Pune present.

CORAM: **MRS.MRIDULA BHATKAR, J.**
(In Chamber)

DATE : **AUGUST 2, 2016**

P.C.:

This is the second bail application preferred by the applicant/accused. The first Bail Application No. 297 of 2015 of the applicant/accused was rejected by this Court on 13th April, 2015. The applicant/accused is charged for the offences punishable under sections 302, 307, 143, 145, 147, 148, 149, 427 and 120B of Indian Penal Code, under sections 3(25), 27, 4 (25) of Arms Act and under section 37(1)(3) of Maharashtra Police Act.

2. The learned counsel for the applicant/accused has submitted that at the time of rejecting the first Bail Application, this Court has granted liberty to move another Bail Application afresh if the trial would not get concluded on or before 30th November, 2015. He submitted that till today the charge is not framed. He further submitted that after rejection of the Bail

Application of the applicant/accused, two accused, namely, Ganesh Pawar and Shankar Koli were released on bail by the learned Sessions Judge by the order dated 8th January, 2016 and the third accused Tushar was also released by the learned Sessions Judge on 16th June, 2015. The learned counsel submitted that these three accused persons and the present accused are attributed the similar role by the eye-witnesses, however, three are released on bail after the order of rejection of bail of the applicant/accused by this Court. He further submitted that the applicant/accused has no criminal record and he was a young boy of 24 years old when he committed the crime.

3. Learned APP opposed this Application and submitted that there are two gangs working in Swargate area and Kunal was murdered by co-accused with pistol and one of the accused who is released on bail is absconding. She submitted that it is a serious offence and therefore, this applicant/accused is not to be released on bail and moreover it is a second bail application.

4. Perused the previous orders passed in various bail applications and also the order of rejection of bail passed in respect of this applicant/accused. The first Bail application was rejected on merit, however, liberty was given to the applicant/accused to move the second

bail application afresh if the trial is not concluded till 30th November, 2015. Hence, the Sessions Court was given a time of nearly 7 months to begin the trial and conclude it. The incident of murder has taken place on 13th November, 2013. However, till today the charge is not framed. I have called the report from the Sessions Court in which the learned Sessions Judge was non-committal about the schedule of framing of charge and the trial. As per the directions given by me, Investigating Officer Mr. Digamber Jakhade, P.S.I., Swargate Police Station, Pune has filed an affidavit dated 28th July, 2016. On perusal of the affidavit, I found that the applicant/accused has no previous criminal record and this point was not considered at the time of rejection of the first Bail Application. Moreover, I have also considered the role attributed to the applicant/accused that he was not holding pistol and three bullets injuries were found in the body of Kunal. Considering all these aspects, a good ground is made out for second bail application. Hence, the applicant/accused is granted bail on the following terms and conditions:

ORDER

- (i) Application is allowed.
- (ii) The applicant/accused be enlarged on bail upon furnishing P.R. Bond in a sum of Rs.50,000/- with one or two solvent sureties in the like amount;
- (iii) The applicant shall not indulge into any criminal activity;

- (iv) The applicant/accused shall make himself available and attend all the Court dates;
- (v) The applicant/accused shall not abscond and shall furnish his permanent address to the police along with address proof.
- (vi) Violation of any of the conditions imposed shall amount to cancellation of bail forthwith.
- (vii) The applicant/accused shall not leave India without the prior permission of the Court.

5. The Application stands disposed of on above terms.

(MRS.MRIDULA BHATKAR, J.)