

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

CRIMINAL BAIL APPLICATION NO.319 OF 2017

Akshay Vilas Gaikwad		... Applicant
vs.		
The State of Maharashtra	WITH	... Respondent

CRIMINAL BAIL APPLICATION NO.1063 OF 2017

Mohseen Gulab Pathan		... Applicant
vs.		
The State of Maharashtra		... Respondent

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Mr. S. R. Borulkar i/b. Mr. Sainand V. Chaugule for the Applicant in BA/319/17.
Mr. Indrajeet Joshi for the Applicant in BA/1063/17.
Mr. S. R. Agarkar, APP for the State.

CORAM : T. V. NALAWADE, J.
DATE : 23.08.2017.

PC.:

1. Both the applications are filed for bail in FIR No. 116/2015 registered in Sanjay Nagar Police Station, Sangli. Initially the crime was registered for offences punishable under Section 302, 364 A, 120 B etc. of Indian Penal Code, Section 3 (25) read with 4 (25) of Arms Act. Charge sheet is filed for these offences and also for the offence punishable under Section 3(1), 3(2), 3(3), 3(4) and 3(5) of MCOC Act. Both the sides are heard. Papers of investigation made available for perusal.

2. The learned counsels for the Applicant produced on record copy of order of this Court for grant of bail in favour of Zuber which is Application No. 1825 of 2016 decided on 18.01.2017. He submitted

that there is virtually no material against the Applicants to make out any prima facie case and so they are entitled to get bail.

3. In proceeding No. 319 of 2017 the learned counsel for the applicant produced on the record a certificate issued by Jail Superintendent, Sangli District Prison. He shows that present Applicant Akshay Vilas Gaikwad was in this jail as per the order by the Chief Judicial Magistrate Sangli in C.R. No. 91/2015 from 16.09.2015 to 12.02.2016 and then he was transferred to Yeroda Jail.

4. Present matter is murder of one Manoj @ Gorakhnath. Report is given by his widow. The offence took place on the night between 09.11.2015 and 10.11.2015. The allegations are made that Manoj was forcefully picked up and forcefully taken to other place where he was murdered. Allegations are against Mohd. Nadaf who is gang leader and his associates. Manoj was working with Mohd. Nadaf in the past but when Mohd. Nadaf was kept in jail in one case Manoj came in contact with kept misters of Mohd. Nadaf. It was known to everybody. When Mohd. Nadaf came out of Jail he demanded rupees two lakh from Manoj as Mohd. Nadaf wanted to make construction of his house. Manoj refused to give the amount and dispute started between Manoj on one side and gang of Mohd. Nadaf on the other. Allegation is made that due to aforesaid motive the crime is committed.

5. The certificate issued by jail superintendent shows that at relevant time Akshay Vilas Gaikwad was present in jail. In view of these circumstances it is necessary for the State to show the material on the basis of which inference can be drawn that Akshay had joined the conspiracy. The material collected does not show that Akshay had contact with the members of the gang and he had become part of the plan. There is an allegation against the other applicant Mohseen that he was seen in the company of main accused after few days of the incident and probably he was helping the main accused to conceal his presence.

The statements of the witnesses in that regard are belated, dated 03.12.2015 though there are two such statements. In any case there is no material against Mohseen also to show that he had participated in the act of murder of Manoj. Due to this circumstances and other circumstances like the grant of bail to one accused by this Court, this Courts holds that bail needs to be granted to these two applicants.

- i) The applications are allowed.
- ii) The applicants are ordered to be released on bail on the applicants furnishing bail bonds of Rs.50,000/- (Rupees Fifty Thousand Only) each, with two solvent sureties in the like amount, to the satisfaction of the Special Court.
- iii) The applicants shall not leave Sangli District, except for attending the trial at the Special Court at Pune, without prior permission of the Special Judge who is trying the MCOC Case No.76 of 2016.
- iv) The applicants are directed to report to the Senior PI. Of Sangli Police Station on every first Monday of the month, till conclusion of the trial.
- v) The applicants shall not interfere with the witnesses or the evidence, in any manner.

(T. V. NALAWADE, J.)