

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

BAIL APPLICATION NO. 2469 OF 2017

Rohit Sampat Pawar

....Applicant

Versus

The State of Maharashtra

....Respondent

Mr. Mahesh B. Zanwar for the applicant.

Mr. H.J. Dedhia, APP for the State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 28th NOVEMBER, 2017

P.C. :

1. The applicant herein is facing trial for offences punishable under Sections 302, 307, 120-B, r/w. 34 of the Indian Penal Code and under Sections 3(1), (25) (27) and 4(25) of Arms Act in Sessions Case No. 70 of 2015 pending before the Sessions Court, Khed, Rajgurunagar, Pune.

2. The earlier bail applications filed by the applicant were withdrawn and liberty was granted to file fresh application after recording of the evidence of seven witnesses whose names are recorded in paragraph 2 of the order dated 07th October, 2016 passed by this Court. The present application is filed after recording of evidence of said witnesses.

3. Heard Mr. Mahesh Zanwar, learned counsel for the applicant and Mr. H.J. Dedhia, learned APP for the State. Perused the records and considered the submissions advanced by the learned counsels for the

respective parties.

4. The records reveal that the first information report in the present case was lodged by Priyanka Bhuruk, widow of the deceased Rohan Bhuruk. The first information report states that on 01st June, 2015, morning at about 10:15 a.m., her husband-Rohan Bhuruk left the house and proceeded towards the car. She had seen two persons talking to her husband while he was standing near the car. Immediately thereafter, she heard some noise and when she came out, she saw her husband lying on the driver's seat in a pool of blood. She saw the two persons running away from the spot and two other persons going on a black motorcycle. With the help of her neighbour, she took her husband to the Unicare Hospital. She was informed that her husband had sustained fire arm injuries. She therefore lodged the first information report against the four unknown persons. Pursuant to the said first information report, crime no.285 of 2015 was registered against the four unknown persons for offences punishable under Sections 307 r/w. 34 of the Indian Penal Code and Section 3(1)(2), 25, 27 of Arms Act.

5. The husband of the first informant expired on the same date. The postmortem report revealed that the deceased Rohan Bhuruk had sustained several bullet injuries which had resulted in several fractures of base of skull. The doctor had opined that the death was on account of cardiac arrest due to bullet injuries.

6. The first information report as well as postmortem report prima

facie reveals that the death of Rohan Bhuruk was homicidal. The case of the prosecution is that there was a land dispute between the applicant and the deceased, due to which the applicant herein has conspired to cause death of Rohan Bhuruk.

7. In support of this contention, the prosecution has examined the witnesses who were the business partners and friends of the deceased. The said witnesses have not supported the case of the prosecution. Nevertheless, the statement of the wife of the deceased recorded under section 161 of Criminal Procedure Code *prima facie* reveals that there was land dispute between the applicant herein and the deceased. Her testimony *prima facie* reveals that just prior to the incident, she had seen two persons talking to her husband and after hearing the bullet sounds, she had seen the said two persons and the two other persons going away from the scene of offence. She has identified the accused nos. 1, 2, 6 and one juvenile in the identification parade. The call records also *prima facie* indicates that the applicant herein was in touch with the accused nos.2, 3, 5, 9, 11 and 12 immediately prior to the incident.

8. The statement of Sunil Zambre also *prima facie* reveals that on the previous night i.e. on 31st May, 2015, at about 10:00 p.m., the applicant, the accused no.9 and four to five other persons had meals at his restaurant. He has subsequently identified the accused nos.1, 2 and 3 as the same persons who had accompanied the applicant in his restaurant on 31st May, 2015.

9. The statement of Dattatray also *prima facie* reveals that he and his brother had taken room on rent. His statement further reveals that on 31st May, 2015, accused no.10 had requested them to allow the applicant to sleep in the said room. His statement further reveals that on 31st May, 2015, at about 00:30 p.m., they had heard some sound. When they entered the room, the accused no.10, told them that nothing had happened. He has further stated that in the next morning, his brother Sandeep had informed the applicant that they had heard the sound of firing of guns in the room. He has stated that when he had entered the room, he had seen one pistol in the room and he had also heard the other person saying “dhak de dhak de” (cover it) and immediately thereafter, the other person had covered the said pistol with a cloth. His statement *prima facie* reveals that the applicant had come to his room on 01st June, 2015 at about 09:00 a.m. and that he had apologized for the incident. He has further stated that after he returned from work, he had entered the room which was earlier occupied by the accused no.10 and four others and he had seen bullet mark on the wall of the room. This witness has identified accused no.1 and 2 in the identification parade.

10. The aforesaid material *prima facie* proves the involvement of the applicant in the said crime, which is of serious nature. The trial of the case is already in progress. Some of the witnesses have already turned hostile. Releasing the applicant on bail can jeopardize the trial.

11. Considering the above facts and circumstances, in my considered

view, this is not a fit case for grant of bail. Hence, the bail application is dismissed. Needless to state that the above observations are *prima facie* only for the purpose of deciding the bail application and the Trial Court shall not get influenced by the said findings while deciding the case on merits.

(SMT. ANUJA PRABHUDESSAI, J.)