

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1339 OF 2018

AKSHAY VILAS GAIKWAD)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.T.M.Pabale, Advocate for the Applicant.

Mrs.M.R.Tidke, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 29th OCTOBER 2018

P.C. :

1 The applicant/accused in Crime No.91 of 2015 registered with Sanjay Nagar Police Station, District Sangli, for offences punishable under Sections 363, 387 and 397 of the Indian Penal Code, by this second bail application, is praying for releasing him on bail during pendency of the trial.

2 Heard the learned counsel appearing for the applicant/accused. He argued that the circumstance which weighed this court in rejecting the first bail application of the applicant/accused is to the effect that Goraknath @ Manya Mane was subsequently murdered and the applicant/accused is an accused in that Crime No.116 of 2015. The learned counsel further argued that the applicant/accused is already released on bail in this subsequent Crime No.116 of 2015 in respect of murder of Gorakhnath @ Manya Mane and therefore, considering the nature of allegation against him in the instant crime, he is entitled for bail.

3 The learned APP opposed the application by contending that there are eye witnesses to the crime in question.

4 The subject crime i.e. C.R.No.91 of 2015 is registered on the basis of the First Information Report (FIR) lodged on 13th September 2015 by Bharat @ Ankush Phonde. The prosecution case is to the effect that Bharat @ Ankush Phonde, Siddhu Dudhal

and Goraknath @ Manya Mane were friends. Mohd.Nadaf @ Mhamdya is the gang leader and he is involved in several criminal activities. Said Mohd.Nadaf @ Mhamdya was demanding Rs.2 lakh from Gorakhnath @ Manya Mane. To extract this amount, on 13th September 2015, First Informant Bharat @ Ankush Phonde came to be abducted so as to use him as a bait for securing presence of Gorakhnath @ Manya Mane and for extracting the amount. By taking Bharat @ Ankush Phonde to Chougule Mala area, he was beaten by accused persons, so as to call Gorakhnath @ Manya Mane. As that attempt failed, even Siddhu Dudhal was brought to the spot. He was also assaulted so as to compel him to secure presence of Goraknath @ Manya Mane. However, the attempt failed, and ultimately, by snatching an amount of Rs.6200/- from First Informant Bharat @ Ankush Phonde and his friend Siddhu Dudhal, they were let go by the accused persons. Subsequently, Mohd.Nadaf and other accused persons murdered Goraknath @ Manya Mane. Another crime is registered in that regard.

5 Earlier bail application of the present applicant/accused was rejected mainly considering the fact that ultimately Gorakhnath @ Manya Mane came to be murdered and the applicant/accused was found to be involved in that murder. It is seen that subsequently, the present applicant/accused had filed Bail Application bearing No.319 of 2017 and this court (Coram : T.V.Nalawade, J.) on 23rd August 2017 is pleased to release the applicant/accused on bail in that crime regarding murder of Gorakhnath @ Manya Mane.

6 Once the applicant is released on bail for the offence of murder of Gorakhnath @ Manya Mane, what remains in the present case against the applicant/accused is to the effect that motorcycle of his father was used by other persons in commission of the crime and that he was present on the spot where abducted First Informant Bharat @ Ankush Phonde was brought. He then assaulted First Informant Bharat @ Ankush Phonde and his friend Siddhu Dudhal by means of fists and kick blows.

7 In this view of the matter, case for bail in the present case is made out because of change in circumstance. Therefore, the order :

ORDER

- i) The application is allowed.
- ii) The applicant/accused is directed to be released on bail on his executing P.R.Bond in the sum of Rs.25,000/- and on furnishing 1 or 2 solvent surety/sureties in like amount.
- iii) The applicant/accused shall not in any manner tamper with the evidence.
- iv) The applicant/accused shall not make any inducement, threat or promise to any person acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the court or to any Police officer.
- v) The application is disposed off.

(A. M. BADAR, J.)