

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

**BAIL APPLICATION NO. 1727 OF 2018**

Mr. Akshay @ Dadya Sahebrao @ Nana Surve ....Applicant  
V/s.

The State of Maharashtra ....Respondent

Mr. Vaibhav V. Ugle for the applicant.

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

**CORAM: SMT. ANUJA PRABHUDESSAI, J.**

**DATED: 30<sup>th</sup> AUGUST, 2018.**

**P.C.:**

. This is an application for bail under Section 439 of Criminal Procedure Code filed by the aforesaid applicant, who has been arrested in C.R.No.267/2015 registered at Paud Police Station, Dist. Pune for the offences punishable under sections 120-B, 302 of the Indian Penal Code, sections 3(1)(i), 3(1)(ii) and 3(iv) of the Maharashtra Control of Organised Crimes Act, 1999 (MCOCA), Sections 3 r/w. 25 and 4 r/w. 27 of the Indian Arms Act.

2. Heard Mr. Vaibhav V. Ugle, learned counsel for the applicant and Mr. S.S. Pednekar, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The aforesaid crime was registered pursuant to the first information report lodged by Sachin Sampat, the brother of the deceased Vijay. The first information report reveals that on 24/12/2015 at about 12:10 a.m., he had received information that his brother was assaulted near Paranjape construction scheme gate. He proceeded to the place of the incident and found that his brother Vijay was lying at the place of the incident with several stab injuries. The watchman at the place of the incident had told him that one person had inflicted injuries on Vijay. He had, therefore, lodged the first information report against an unknown person. The statement of the watchman Kishor Bangar *prima facie* reveals that co-accused Amar had inflicted injuries on said Vijay. In view of the said statement of watchman/Kishor Bangar, Amar Sanas was arrayed as accused no.1. It is alleged that during the course of the investigation, it was revealed that the applicant and others had entered into a criminal conspiracy to eliminate said Vijay.

4. It is to be noted that the applicant herein was not involved in inflicting injuries but is stated to have entered into a criminal conspiracy to cause the death of Vijay. In this regard, the prosecution has placed reliance on the statement of one Abhishek Kawde, brother-

in-law of the deceased Vijay. The statement of Abhishek Kawde *prima facie* reveals that on 14/12/2015, he had met Vijay at his office and wished him on his birthday. Later on, he had gone in a hotel called New Sahiba Hotel. There were about six persons sitting in the adjoining room and that he had heard them saying that Vijay had celebrated his birthday and that he was not allowing others to deal in property transactions. The said persons were abusing Vijay. This witness claims that the applicant and the co-accused were sitting in the said room and planning to deal in land transactions. He had also heard them saying that the deceased Vijay would not allow them to deal with such property transactions and that they should find a way out. This witness claims that when the co-accused Amar has told Nilesh to speak softly, the applicant and Nilesh had said that they would even kill the person whoever hears the conversation and that Appa and Merne gang was very powerful.

5. The prosecution has also relied upon the statement of one Nagesh Shrihari Salunke, who has stated that in the month of December, 2015 he had seen the applicant purchasing some sickles and knives. He had later told the witness that he had purchased the said weapons to cut the grass. The prosecution has also relied upon the recovery

panchanama. It is not the case of the prosecution that the weapon which was allegedly recovered at the instance of the applicant was a weapon of offence.

6. Thus, apart from the statement of the witness Abhishek that the applicant had attended the meeting on 14/12/2015 wherein the conspiracy to eliminate the Vijay was hatched, there is no prima facie material to show his involvement in the crime including the crime under MCOC. It is to be noted that the co-accused Mayur Sanas who was allegedly part of the said meeting and was attributed similar role, has been granted bail by this Court vide order dated 02/07/2018. It is also not in dispute that Nilesh Marne has also been released on bail. Hence, the applicant is also entitled for bail on the ground of parity.

7. Under the circumstances and in view of the discussion supra, the Bail Application is allowed on following terms and conditions :-

(a) The applicant who has been arrested in C.R.No.267/2015 is ordered to be released on bail on furnishing bail bond of Rs.1,00,000/- (Rupees One Lakh) with one or two solvent sureties in the like amount, to the satisfaction of Sessions Judge, Pune.

- (b) The applicant shall not reside in Taluka Mulshi, District Pune till the conclusion of the trial.
- (c) The applicant shall furnish his permanent address and temporary address, if any, and furnish contact details to the concerned Court.
- (d) The applicant shall not change his residential address without prior intimation to the concerned Court.
- (e) The applicant shall not interfere with the first informant and other witnesses in any manner.

**(SMT. ANUJA PRABHUDESSAI, J.)**