

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

CRIMINAL BAIL APPLICATION NO.383 OF 2019

Shankar Laxman Navale

.. Applicant

Vs.

State of Maharashtra

.. Respondent

Mr.A.P. Mundargi, Senior Advocate I/by Mr.Kuldeep Patil for the applicant.

Ms.S.S. Kaushik, APP for respondent.

Mr.Sameer Shaikh, ACP, Pune.

CORAM : P.N. DESHMUKH, J.

DATE : 9th April 2019

P.C.:

1. One of accused involved in C.R. No.10 of 2018 registered with Deccan Police Station, Pune for offences punishable under Sections 302, 307, 120B, 201 of IPC and Section 3(25) Arms Act and Section 3(1)(i), 3(2) and 3(4) of MCOC Act has filed this application for bail. Admittedly charge-sheet is filed in this crime.

2. Heard learned counsel for applicant and learned APP. Investigating Officer is present. Perused documents filed with application which consists of copy of charge-sheet.

3. Learned counsel for applicant has contended that in the entire charge-sheet, no specific role is attributed to applicant to establish

his involvement in present crime as he is not named in report nor in statement of any of witnesses but name of applicant is referred in confessional statement of co-accused Rahul Shivtare, however, perusal of said statement established that he has falsely involved applicant. By referring to above evidence, it is further contended that other available evidence against applicant is by way of CDR's establishing telephonic contact of applicant with co-accused Rahul, however, it is submitted that these calls are of much prior to incident and as such can have no bearing with incident in question. In the background of above facts, it is contended that application be allowed as other 3 crimes in which applicant is involved, he is acquitted in the same.

4. Learned APP submitted on the same lines as per affidavit-in-reply on record, however, on instructions, could not dispute submissions advanced as aforesaid for applicant. In that view of the matter, only evidence which admittedly is pressed into service against applicant is of his name as appearing in confessional statement of co-accused and his call details involving same co-accused Rahul Shivtare prior to incident.

5. In the background of submissions and facts as above,

perusal of report lodged by son of deceased refers to incident of firing upon his deceased father in the night of 13th January 2018 after 11.00 p.m. in their parking area of building by 2 unknown persons. However, none of them has admittedly identified in test identification parade held during the course of investigation. Even otherwise according to case of prosecution, applicant was not present on the spot. Only involvement of applicant as stated above is by way of confessional statement of co-accused Rahul who in its fag end named applicant, however, in the same statement, had clarified that he has falsely involved applicant in his confessional statement as prior to incident, applicant had assaulted him at Ranjangaon and as such, he had grudged against him in his mind and has therefore, falsely named applicant to have provided Rs.60,000/- for purchasing Pistol. Co-accused in the very statement had clarified reason of his falsely implicating the applicant.

6. Another count of involvement of applicant based on CDR, was considered against applicant of his contacting co-accused Rahul on two occasions prior to incident, firstly on 1st September 2017 and secondly on 14th October 2017, same is of no consequence as incident is of 13th January 2018. In that view of matter, these CDR's by itself are too short to connect applicant in present crime. Even otherwise, co-

accused Rahul as well as applicant were knowing each other prior to incident as reveals from confession of Rahul, where he had stated that prior to incident, there was some incident between them which occurred at Ranjangaon, when he was assaulted by applicant. In that view of the matter, it cannot be said that applicant by contacting co-accused, Rahul had actively participated in commission of present crime. Though applicant is involving in 3 other crimes, admittedly he is acquitted from them. In the circumstances, application is liable to be allowed by imposing suitable conditions as per order below:-

ORDER

- (i) Applicant Shankar Navale in C.R. No.10 of 2018 registered by Deccan Police Station, Pune shall be released on bail on his executing P.R. Bond in the sum of Rs.50,000/- with one surety in the like amount;
- (ii) While on bail, applicant shall mark his presence with Deccan Police Station once in 3 months on first day of each such month pending trial, and shall attend trial Court without fail.
- (iii) Application stand disposed of in above terms.

P.N. DESHMUKH, J.