

ISM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL BAIL APPLICATION NO. 1696 OF 2018**

Dattatraya Mahadev Padale

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

Mr. Aniket Nikam i/b Mr. Aashish Satpute advocate for the applicant

Ms. S. S. Kaushik APP for the State

Mr. Raju Mahanor, API, Loni Kalbhor Police Station

CORAM : NITIN W. SAMBRE, J.**DATE : JANUARY 25, 2019.****P.C.**

Applicant is seeking regular bail in Crime No. 1151/2016 registered with Lonikalbhor Police Station, Pune Rural for offence punishable under Sections 302, 341, 212, 34 & 120B of the Indian Penal Code.

2 The prosecution case against the applicant is their own group member Shivaji Gaikwad claimed to have been murdered, so as to

falsely implicate rival accused persons. In the course of investigation, it had transpired that the brother of the Applicant viz. Sudam Gaikwad was in custody in Crime No. 338 of 2015. He was lodged in the cell along with Pandurang Marathe, who happens to be an habitual offender. It is case of the prosecution that one Sunil Gaikwad had hatched conspiracy with Pandurang Marathe so as to eliminate one of the member of their own family / group so as to involve their arch rivals i.e. members of Modak family in the present offence, It is the case of the investigating agency that what was decided was to cause serious injuries to the deceased and not to eliminate him.

3 Other co-accused was already ordered to be released on bail vide order dated 31/08/2017. Vide order dated 10/08/2018 co-accused Pappu @ Sunil Dattatray Gaikwad by this Court was ordered to be released.

4 The learned counsel for the applicant submits that there is hardly any material on record to infer *prima facie* involvement of the

applicant in the crime in question whereas the learned APP opposed the bail based on circumstantial evidence available on record in the backdrop of prosecution story narrated hereinabove.

5 This Court in the aforesaid order dated 10/08/2018 passed in BA No. 2564/2017 and order dated 31/08/2017 passed in BA No. 1357/2017 has already allowed the prayer for bail of the co-accused. The case of the applicant is comparatively better situated than those accused as could be appreciated from the material available on record.

6 The only circumstantial evidence which is considered by the prosecution to implicate the applicant is statement of Balaji, Punit who was working in the lodge where applicant claimed to have stayed after the execution of offence in question. Accused no. 1 Pappu @ Sunil who had made arrangement of the stay of the applicant is already ordered to be released in BA 2564/2017 vide order dated 10/08/2018. That being so, applicant deserves to be released on bail. Hence, following order:

(A) Applicant be released in Crime No. 1151/2016 registered with Lonikalbhor Police Station, Pune on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.

(B) Applicant shall not influence witnesses or tamper with evidence.

7 Application stands disposed of.

[NITIN W. SAMBRE, J.]