

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

CRIMINAL BAIL APPLICATION NO. 2014 OF 2018

Nainesh Ravikant Khanvilkar ... Applicant
Vs.
The State of Maharashtra ... Respondent

WITH

CRIMINAL BAIL APPLICATION NO. 2133 OF 2018

Sanket Sanjay Khair ... Applicant
Vs.
The State of Maharashtra ... Respondent

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Mr. Sudeep Pasbola a/w Mr. Bhavesh Thakur & Karl Rustomkhan
I/by Mr. Prajyot Shrivastava for applicant.

Mr. Prashant Jadhav, APP for the Respondent-State.

Mr. Ghorpade, PSI, Bhandup Police Station is present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 4th JANUARY, 2019.

P.C.

1. The applicants are seeking bail under Section 439 of Code of Criminal Procedure in CR No. 119 of 2018 registered with Bhandup Police Station for the offence punishable under Section, 143, 144, 147, 148, 149, 302 read with 120-B of Indian Penal Code. The applicants were arrested on 26th March, 2018.

2. The prosecution case is that the deceased was in relationship with the sister of accused No.1. Manesh @ Babu. Said relationship was not liked by the accused No.1. Accused therefore conspired to

liquidate the deceased. On the date of incident, weapons were collected. The applicant and other accused had allegedly conspired and gathered on the date of incident. Information was received that the deceased was resting in auto rickshaw and hence it was decided that to assault him. Accused proceeded to the place of incident and deceased was assaulted by weapons. FIR was lodged on 25th March, 2018.

3. Statement of two eye witnesses namely Akshay Baliram Ghagre and Vijay Kadam were recorded. The witnesses have referred to the presence of the applicant at the scene of offence. Deceased was assaulted by weapons at the instance of other accused. No role of assault is attributed to the applicants. There is no recovery from the applicants. Learned advocate for the applicants submitted that except the statement of aforesaid witnesses, there is no other evidence against applicants. CCTV footage recovered during the course of investigation shows presence of some person. There is no identification of the persons who had seen in the CCTV footage as applicants.

4. Learned APP however submitted that the statement of the aforesaid two eye witnesses shows that the applicants were conspirators. The discussion about the liquidating the deceased

had taken place prior to the assault. The conversation ensued between the accused indicate that they had planned to kill the deceased. The presence of the applicants is shown at the scene of offence.

5. Statement of two witnesses were recorded on 5th April, 2018 and 6th April, 2018 and the incident had occurred on 24th March, 2018. Statement of Akshay Ghagre indicate that he was questioned by the police on the date of incident. He had visited the police station on same day and disclosed whatever he had seen to the police. Surprisingly, his statement was recorded on 5th April, 2018. There is no recovery from the applicant. Assuming that there is evidence of conspiracy, the applicants cannot be kept in further detention as the investigation is completed and the chargesheet is filed. The alleged conspiracy is revealed from the statement of aforesaid witnesses which were recorded on 5th April, 2018 and 6th April, 2018. There are no antecedents against the applicant. In the circumstances, the case for grant of bail is made out.

ORDER

i Criminal Bail Application No. 2014 of 2018 and Criminal Bail Application No. 2133 of 2018 are allowed;

- ii. Applicants are directed to be released on bail in connection with C.R. No. 119 of 2018 registered with Bhandup Police Station on furnishing P.R. Bond in the sum of Rs. 25,000/- each with one or more sureties in the like amount;
- iii. Applicants shall report to the concerned Police Station once in a month on first Saturday between 10:00 a.m. to 12:00 noon, till further orders;
- iv. Applicants shall not temper with the prosecution witnesses or pressurize the witnesses;
- v. Criminal Bail Application No. 2014 of 2018 and 2133 of 2018 stand disposed off.

(PRAKASH D. NAIK, J.)