

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

CRIMINAL BAIL APPLICATION NO. 2786 OF 2018

Rakesh @ Roshan Ramashankar Mishra ... Applicant
Vs.
State of Maharashtra ... Respondent

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Mr. Ravi Dwivedi for the applicant.
Mr. A.R. Kapadnis, APP for the Respondent-State.

...
CORAM : PRAKASH D. NAIK, J.
DATE : 7th FEBRUARY, 2019.

P.C.

1. This is an application for bail in connection with CR No. I-645 of 2016 registered with Manpada Police Station for the offence punishable under Section 302, 120(b), 201 read with 34 of Indian Penal Code.

2. The case of the prosecution is that accused had conspired to kill the complainant on 21st December, 2016. The complainant was at the driver's seat in the vehicle and his friend Vicky @ Vivek Omprakash Sharma was standing at the back side of his car. Complainant heard sound of firing of bullet and he noticed that his friend Vicky had sustained injury. Applicant was arrested on 21st February, 2017.

3. Case of the prosecution is that there was conspiracy to

liquidate the complainant. As far as applicant is concerned the prosecution is relying upon the memorandum statement of the co-accused who was arrested and it is alleged that applicant is part of conspiracy and committed the said act with the help of co-accused. However, there is no independent witness to corroborate the said fact.

4. Learned APP submitted that apart from the memorandum statement of the co-accused there is evidence of CDR Record which shows that accused was in touch with each other on the date of incident and even prior to the incident.

5. However, apart from the said fact there is no other cogent evidence against the applicant which establishes his involvement in the crime. Co-accused Nagesh Pandurang Sonwale was allegedly seen at the place of incident and was armed with weapon. He has been granted bail vide order dated 3rd April, 2018 in Criminal Bail Application No. 306 of 2018 by this Court. As far as the said accused is concerned, the prosecution had alleged that he was in touch on his cell phone with the assailants prior to the incident and at the time of incident. Learned counsel for the applicant submitted that there are no criminal antecedents against the applicant. Considering the nature of offence and the fact that

applicant is in custody for about two and half years. Case for grant of bail is made out. Hence, I pass the following order.

ORDER

- i. Criminal Bail Application is allowed.
- ii. The applicant be enlarged on bail, on executing PR Bond in the sum of Rs.20,000/- with one or two sureties in the like amount;
- iii. The applicant shall attend the concerned Police Station on the first Sunday of every month between 10:00 a.m. to 11:00 a.m., till the conclusion of the trial;
- iv. The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- v. The applicant shall inform his place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- vi. The applicant to cooperate with the conduct of the trial;
- vii. The applicant shall file an undertaking in the trial Court with regard to clauses (iii) to (vi), within two weeks of his release;

viii. If there are two consecutive defaults in appearing before the trial Court on in reporting to the Investigating Officer and if there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

ix. The application is allowed in the aforesaid terms and is accordingly disposed of.

x. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

xi. All concerned to act on the authenticated copy of this order.

(PRAKASH D. NAIK, J.)