

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.539 OF 2019

Mahesh Dilip Waghmare, Age 26 years, Occ.Farmer, R/o.Manerajuri, Tal.Tasgaon, District Sangli (Presently lodged in Prison)	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Kiran Chandrakant Shirguppe for applicant.
Smt.Veera Shinde, APP, for State.
Mr.Umesh M. Dardile, API and IO, Application Branch, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 3rd March 2020

PC :

1. Leave to amend to correct CR number in the prayer clause of the application. The amendment be carried out forthwith.
2. The applicant is seeking bail in CR No.254 of 2018 registered with Tasgaon Police Station, District Sangli, for offences under Sections 302, 120-B r/w 34 of Indian Penal Code and under Sections 3, 25, 27(3) of Arms Act.
3. The FIR was lodged by Nitesh Jivan Mane on 7th July 2018. It is alleged that in the year 2016 there was a quarrel between the complainant and the applicant. Subsequently the complainant has learnt from his cousin that the applicant is likely to shoot him by pistol. He also learnt that the applicant was arrested for possessing pistol one year ago. On 6th July 2018 at about 2 pm, the complainant came across the applicant who was proceeding through

his car. He stared at the complainant and left. The father of the complainant had proceeded towards agricultural field with animals. The father of the complainant did not return home. The search was carried out. Subsequently dead body of the deceased was found. Information was given to police. The deceased had sustained injury on head. He was shot by pistol. Investigation was conducted. The applicant and the co-accused were arrested. The charge sheet is filed.

4. Learned advocate for applicant submitted that there is no eye witness to the incident. The case is based on circumstantial evidence. Except suspicion, there is no cogent evidence to involve the applicant in crime. Recovery of pistol is from the co-accused. The applicant is in custody from the date of arrest. The co-accused were granted bail. Although chit was recovered from the possession of applicant along with cartridge, the prosecution could not establish link of chit and cartridge with murder.

5. Learned APP submitted, on instructions from officer who is present in Court, that no CDR is available. The applicant had motive to commit crime. There was quarrel between the complainant and the applicant in the past. Pistol is recovered from the co-accused. The co-accused had stated that it was handed over by the applicant. Ballistic report supports the prosecution case that pistol which was recovered during investigation was used in crime.

6. I have perused the documents. There is nothing to show that the applicant had any grudge against father of complainant. The previous quarrel with son of deceased had occurred in 2016. The

incident is of 2018. There is recovery of pistol from co-accused. The statement made by co-accused during alleged recovery cannot be used against applicant. The cartridge and the chit allegedly found in possession of applicant, cannot be said to be strong evidence to involve the applicant in crime. The co-accused from whom the alleged pistol was recovered and the other accused are granted bail by Sessions Court. There are no criminal antecedents against applicant. Case for grant of bail is made out.

7. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.539 of 2019 is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.254 of 2018 registered with Tasgaon Police Station, Tasgaon, District Sangli, on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend Tasgaon Police Station once in a month on every first Saturday of month between 11 am and 1 pm till further orders.

(PRAKASH D. NAIK, J.)

MST