

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

CRIMINAL BAIL APPLICATION NO. 2680 OF 2019

Dattatray @ Bandu Manohar Bhusnar ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

CRIMINAL BAIL APPLICATION NO. 2756 OF 2019

Ramesh Appa Khot ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Sagar Bhandare, Advocate for the Applicant in Bail Application No.2680 of 2019.

Mr. Kuldeep S. Patil, Advocate for the Applicant in Bail Application No.2756 of 2019.

Smt. A. A. Takalkar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 26th February, 2020

PC :

1. The applicants in both these applications are seeking bail in connection with C.R. No. 212 of 2018 registered with Kavathemahnkal Police Station, Dist. Sangli for offences punishable under Sections 307, 120(B), 212, r/w Section 34 of Indian Penal Code and Section 3, 25, 27 of Arms Act.

2. The FIR was lodged by Dagadu Vasant Patil on 25th July, 2018. The case of the prosecution is that Sonu @ Mukund Dudhale is the friend of complainant. He along with Sonu Dudhale, Bandu Olekar, Balu Wadkar, Shashikant Pawar & friend of Bandu Olekar came to Kavathemahnkal and dropped them to Court for attending hearing. Thereafter, the complainant and friend of Bandu Olekar went for repairing vehicle. After repairing the vehicle Sonu Dudhale met him and they proceeded to Kongnoli. Yogesh Utare was waiting near Tahsildar Office. Sonu had received phone call of his friend and they waited near Siddharth Petrol Pump. At that time two persons came on motorcycle. The pillion rider got down from the motorcycle and shot at Sonu Dudhale by his pistol on his head. Sonu fell down. He sustained grievous injury. He was taken to hospital. The complaint was lodged immediately after the incident. During investigation, police arrested accused No. 5 & 6 who had fired at Sonu dudhale. The applicant Dattatray @ Bandu Manohar Bhusnar was allegedly riding the motorcycle and the pillion rider had shot at Sonu Dudhale. The role attributed to the applicant Ramesh Khot is that he was the conspirator along with other accused who had planned to liquidate Sonu Dudhale. Statements of various witnesses were recorded. On completing investigation, charge-sheet was filed.

3. Learned counsel for the applicant in Bail Application No. 2680

of 2019 submitted that there is no cogent evidence against him. He has no enmity with the injured person. The charge is under Section 307 of IPC. The victim is out of danger. The applicant was allegedly riding motorcycle and the victim was shot by the co-accused. There are discrepancies in the evidence of witnesses. The applicant is in custody from 26th July, 2018. Further detention of the applicant is not necessary. There is no evidence to show that the applicant was conspirator in the crime. The applicant has been falsely implicated in this case. He has not been named in the FIR. The FIR was lodged against unknown person. There is no enmity between injured and applicant. There is no incriminating circumstances or evidence against the applicant. Injured is history sheeter. Criminal cases are registered against him. Other accused were released on bail. There are no antecedents against applicant.

4. Learned counsel for the applicant in Bail Applicant in 2756 of 2019 submitted that, the applicant was not present at the scene of offence. There is no evidence to show his complicity in the crime. He was impleaded on the basis of suspicion. There is no strong evidence to show that there was conspiracy. The statement of witnesses relied upon by the prosecution to support charge under Section 120(B) suffer from serious infirmities. His name is not in FIR. He is in custody from the date of arrest. The applicant is in custody from the

date of arrest. Further custody is not required.

5. Learned APP submitted that there is voluminous evidence to show the involvement of the applicants in the crime. The applicant Ramesh Appa Khot is mastermind in the crime. He had conspired to liquidate Sonu Dudhale. The statement of Sonu Dudhale was required to be recorded on 3rd October, 2018 as previously he was not in a position to give statement. The injury sustained by him was so a grievous that he had survived miraculously. He was hospitalized for a long time. Statement was recorded on 27th September, 2018. The statements of various witnesses indicate that there was preplanned conspiracy between both the applicants and the co-accused, to kill Sonu Dudhale. He was shot from the close range. There is evidence against the applicants. Conspiracy is established from the statement of witnesses. There is C.D.R. record to establish the complicity of the applicants in the crime. There is evidence to show that the revolver was handed over to Ramesh Khot. Statement of Atul Shivaji Kamble was recorded under Section 161 as well as 164 of Cr.PC. The statement of Manisha Dattatray Bhusnur who is wife of Dattatray @ Bandu Bhusnur has also given incriminating statement involving the applicant/accused. The statement of witness Vandana Yogesh Lingale recorded under Section 161 as well as 164 of Cr.PC. also shows the involvement of the applicants in the crime.

Janardan Soma Patil has also deposed and given statement which shows the involvement of the applicants in the crime.

6. I have perused the charge-sheet. The offence is of serious in nature. Injured was shot from close range by pistol. The bullet was fired on the head of the injured. He was hospitalized for a long time. He was not in a position to speak and ultimately on 3rd October, 2018 his statement was recorded. Supplementary statement of complainant was recorded on 26th November, 2018. Sonu Dudhale told him on 3rd October, 2018 that Babu Rajmane and Bandu Bhusnur (Applicant) came on Motorcycle. Babu Rajmane threatened injured and fired at him. He identifying both the accused. Statement of Vandana Lingale was recorded on 26th July, 2018. She is wife of Yogesh. She stated that on 24th July, 2018 her husband was talking on phone that, Ramesh Nana told him to finish Sonu on next day. Her husband told her that Ramesh Nana had told Bandu Bhusnur and Babu Rajmane to kill Sonu Dudhale. Dudhale was supposed to kill Sunil Lingale and Ramesh Nana. Statement of Vandana Lingale is also recorded under Section 164 of Cr.P.C. Yogesh Uttare is eye witness to incident. Statement of injured was recorded as dying declaration on 3rd October, 2018. He has named applicant. Bandu Bhusnur and Babu Rajmane as assailants. It is prosecution case that Ramesh Khot and others conspired to murder Sonu Dudhale. Ramesh

Khot purchased country made revolver from Akshay Pote in presence of Santosh Atpadkar, Ravindra Jadhav, Atul Kamble Sunil Lingale. Ramesh Khot gave Rs. 70,000/- to Sunil and Amar to search persons to kill Dudhale. Ramesh gave training of firing pistol to Dinesh and Dattatray. Ramesh Khot showed place where pistol and bullet was delivered to accused. He has named the applicant Dattatray @ Bandu Manohar Bhusnar as the person who was accompanying the co- accused on motorcycle. The pillion rider had shot him. The case of the prosecution is that, the applicant Dattatray was riding the motorcycle. C.D.R. supports the prosecution case. Thus, prima facie involvement of the applicants is disclosed. There are criminal antecedents against the Ramesh Appa Khot. Considering these circumstance, no case for grant of bail is made out.

7. Hence, I pass the following order :

ORDER

Bail Application Nos. 2680 of 2019 & 2756 of 2019 stands rejected and disposed of accordingly.

(PRAKASH D. NAIK, J.)