

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 660 OF 2021

Sayyad Shabbir Sayyad Shafi

Applicant

Versus

The State of Maharashtra

Respondent

Mr. S.S. Jadhav, Advocate for the applicant.
Mr. V.M. Kagne, APP for respondent/State.
Mr. V.M. Jaware, Advocate for informant.

CORAM : M.G. SEWLIKAR, J.

RESERVED ON : 26th October, 2021
PRONOUNCED ON : 6th December, 2021.

PER COURT :

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No. 118/2020 registered with Muktainagar Police Station, Dist. Jalgaon, for the offences punishable under Sections 302, 120B, 201 of the Indian Penal Code and under Sections 4/25 of Arms Act.

2. Facts in brief are that deceased Dinkar Patil was the cousin of the informant. The deceased was in politics since last 20 years and was the President of Panchayat Samiti, Muktainagar. One

Pramod Shaligram Patil used to be with the deceased. Said Pramod informed the informant on 17th June, 2020, at 5.15 pm, that on 16th June, 2020, Pramod, Vijay Patil and the deceased were chatting till 2.30 am at Dwarka Kisan petrol pump. Pramod further told the informant that they slept in the ground in front of said petrol pump. At 5.00 am, when Pramod woke up, he found Dinkar in a pool of blood. His throat was slit by means of some sharp weapon. When informant visited the spot of the incident, he found the deceased lying in a pool of blood. Therefore, he lodged First Information Report on 17th June, 2020. On the basis of this First Information Report, offence under Section 302 of the Indian Penal Code came to be registered.

3. On 19th June, 2020, supplementary statement of the informant was recorded. In the supplementary statement, informant stated that Vilas Mahajan and Tejrao Patil were not on good terms with deceased Dinkar. Tejrao Patil used to oppose deceased Dinkar in the social or political work. Accused Tejrao Patil and Vilas Mahajan were jealous of deceased Dinkar. It has further come in his supplementary statement that on 2nd April, 2020, at 6.00 to 7.00 pm, there was a quarrel between Dnyaneshwar Tambe, Ramrao Patil and

Santosh Patil, Shivaji Patil, Ajabrao Patil and Nandabai Patil. In this quarrel, father of Vilas Mahajan, by the name of Ramkrushna, sustained injury to his head. At that time, deceased Dinkar had convinced Vilas Mahajan owing to which, Vilas Mahajan did not lodge complaint against Santosh Patil, which was not liked by Vilas and Tejraro Patil. Ramrao Patil had lodged complaint against Santosh and his relatives on the basis of which, Crime No. 57/2020 under Section 324, 504, 506 read with Section 34 of the Indian Penal Code came to be registered. Deceased Dinkar had helped Santosh and his relatives to get bail. For that reason, Tejraro and Vilas were annoyed with Dinkar. On this basis, suspicion was expressed by the informant that accused Tejraro Patil and Vilas Mahajan had committed murder of the deceased.

4. It was revealed in the investigation that Vilas Mahajan and Tejraro Patil had given contract to the applicant for killing the deceased.

5. It is the case of the prosecution that accused Tejraro Patil and Vilas Mahajan hatched a conspiracy to commit murder of deceased Dinkar. Accused Tejraro Patil and Vilas Mahajan took help

of applicant Sayyad Shabbir and they agreed to pay Rs. 2,50,000/- to Nilesh Gurchal and Supadya Jadhav for committing murder of the deceased. It is alleged that on 17th June, 2020, during night time, Nilesh Gurchal, Supdya Jadhav and Amol came on the motorcycle at the spot of the incident. Applicant made sure that the deceased was present in the premises of the said petrol pump. Accused Nilesh brought knife with him. Accused committed murder of the deceased by knife and fled away. Accordingly, amount of Rs. 2,50,000/- was paid to the applicant by accused Nos. 1 and 2.

6. Heard Shri Jadhav, learned counsel for the applicant and Shri Kagne, learned APP for the State.

7. Learned counsel Shri Jadhav submitted that name of the applicant does not figure in the First Information Report. He submitted that there is no material to implicate applicant in this crime. Prosecution could not collect any evidence to establish nexus between the applicant and the offence. CCTV footage is collected but identity of the present applicant is not established. Transcript of conversation between accused Tejrao and Vilas is produced. It leads prosecution nowhere. He submitted that there is no evidence to

connect the applicant with the offence.

8. Learned APP Shri Kagne submitted that accused Tejrao and Vilas were not on good terms with the deceased. They had political rivalry. All the witnesses have stated that as the deceased had helped in arranging surety for Suresh and his relatives, accused Tejrao and Vilas were annoyed with the deceased. Accused Tejrao and Vilas were jealous of the progress made by deceased Dinkar. Therefore, they gave contract of killing deceased to the applicant. He submitted that in the conversation between accused Tejrao and Vilas, there is a reference of applicant. He submitted that statement of witness Akash Pawar establishes connection of the applicant with the offence. He submitted that there is CCTV footage which indicates that applicant had committed murder of the deceased. He, therefore, prayed for rejection of the application.

9. It is not in dispute that accused Tejrao and Vilas were not on good terms with deceased Dinkar. There are statements of witnesses which show that as deceased had helped Santosh in arranging sureties, accused Tejrao and Vilas got annoyed with the deceased.

10. There is no evidence to show that accused Tejrão and Vilas had hired the applicant for killing the deceased. There is no evidence to show that accused Tejrão and Vilas had hatched a conspiracy to commit murder of the deceased and had given contract to the applicant to kill the deceased and it was agreed between them that applicant would be paid Rs. 2,50,000/- by accused Tejrão and Vilas.

11. Transcript of conversation which had taken place on the mobile of accused Tejrão and Vilas is placed on record. It does not even remotely show involvement of the applicant in the commission of the offence. The transcript shows that at one place accused Vilas had said that he would speak to Shabbir. Shabbir means the present applicant. However, it is difficult to infer that Shabbir as referred in the conversation is the present applicant. Even if it is assumed for the sake of argument that it was the applicant, even then it leads prosecution nowhere because the only meaning one can draw is that accused Vilas had said to accused Tejrão that he would speak to Shabbir. On the basis of this vague statement, liability of committing murder of deceased Dinkar cannot be fastened on the applicant. Except this, there is no evidence to show that applicant was involved

in the murder of the deceased.

12. Witness Akash had stated that on 16th January, 2020, at 7.30 pm, accused Nilesh had met him at Nadgaon railway station. Accused Nilesh had taken mobile number of witness Akash. At 10.30 to 11.00 pm, Nilesh had called witness Akash and had asked him to make conference call with Mobile No. 7028859396. This witness has stated that accused Nilesh had asked him to take applicant in conference. Except this, there is no evidence to show that applicant was involved in commission of murder of the deceased. Nilesh had asked witness Akash to take holder of Mobile No. 7028859396, allegedly of the applicant, on conference call and asked him to commit murder of deceased, is a far fetched inference. Even if it is accepted for the sake of argument that it was a call made to the applicant, there is nothing on record to show as to what conversation had taken place between applicant, Nilesh and Akash.

13. Charge-sheet is filed. There is no recovery of weapon from the applicant. In this view of the matter, since there is no evidence to connect the applicant with the offence, I am inclined to release the applicant on bail. Nothing is placed on record to show

that applicant will not be available for trial. It is not alleged that applicant has criminal antecedents. In this view of the matter, following order is passed:-

ORDER

- i) Application is allowed.
- ii) Applicant be released on PR Bond of Rs. 50,000/- (Rs. Fifty Thousand) with one solvent surety in the like amount in connection with Crime No. 118/2020, registered with Muktainagar Police Station, Dist. Jalgaon, for the offences punishable under Sections 302, 120B, 201 of the Indian Penal Code and under Sections 4/25 of Arms Act.
- iii) Applicant shall not make any attempt to influence the prosecution witnesses in any manner.
- iv) Applicant shall not put any obstacle in the trial and remain present on the dates fixed by the Trial Court and co-operate the Trial Court.
- v) Applicant shall deposit his passport, if any, with the Judicial Magistrate First Class, Muktainagar.

vi) Applicant shall not travel abroad without prior permission of the Judicial Magistrate First Class, Muktainagar.

vii) Applicant shall furnish his address in detail and mobile phone number with the J.M.F.C., Muktainagar and Police Station, Muktainagar, and Police Inspector, Muktainagar Police Station to verify the same.

viii) Bail before the Judicial Magistrate First Class, Muktainagar, Dist. Jalgaon.

ix) Application stands disposed of.

(M. G. SEWLIKAR)
Judge