

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.90 OF 2021
WITH
INTERIM APPLICATION NO.1454 OF 2021

Ramesh @ Nana Appaso Khot, Age 40 years,
R/o.At Pimpalwadi, Tal.Kavathe Mahakal,
Dist.Sangli (presently in Kolhapur Central Jail) Applicant

versus

The State of Maharashtra Respondent

Mr.Niranjan Bhavake for applicant.
Ms.Veera Shinde, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 12th July 2021

PC :

1. This is an application for bail in CR No.212 of 2018 registered with Kavthe Mahakal Police Station for offences under Sections 307, 120(B), 212 r/w 34 of Indian Penal Code and under Sections 3, 4 and 25 of Arms Act.

2. This is second application for bail. The previous application was rejected by this Court vide order dated 26th February 2020. The case of prosecution is that the FIR was lodged by Dagadu Vasant Patil on 25th July 2018. Sonu @ Mukund Dudhale is the friend of complainant. He along with Sonu Dudhale, Bandu Olekar, Balu Wadkar, Shashikant Pawar and friend of Bandu Olekar came to Kavthe Mahakal 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 nos.5 and 6 who had fired at Sonu Dudhale. 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. The applicant was arrested on 19th October 2018. Investigation proceeded. Statement of witnesses were recorded. On completing investigation charge sheet was filed.

4. Learned advocate for applicant submits that applicant is in custody for a period of two years and eight months. There is no progress in trial. The applicant need not be kept in custody for indefinitely period. It is not clear as to when trial would commence and come to an end. The applicant is not the assailant. The role of firing is attributed to co-accused. The allegation against applicant is that he is the conspirator. The victim/injured is out of danger. Long period of custody without trial is change in circumstance to entertain this application. There is no evidence to show complicity of

applicant as conspirator except some vague statements of witnesses. The statement of Manisha D. Bhusnur and Vandana Y. Lingle did not establish conspiracy between applicant and the co-accused. Their husbands have not disclosed names of persons talking with them. These witnesses have deliberately implicated applicant on the say of their husband as applicant is politically influential. Evidence on record would indicate that other persons who were actively involved had reason to liquidate the victim. For offence u/s.307 of IPC the applicant shall not be kept in custody without trial. Several other accused are granted bail.

5. Learned APP submitted that previous application of the applicant was rejected by this Court. The applicant is involved in two cases for offence u/s.302 of IPC and two cases registered under Prevention of Gambling Act. The applicant is the main person involved in the crime. He had hatched the conspiracy with other accused and instructed them to kill the victim. Applicant had motive to commit crime. The co-accused was granted bail on different grounds.

6. In respect to criminal antecedents of the applicant referred by learned APP, learned counsel for applicant submits that applicant has been acquitted in the case registered for offence u/s.302 of IPC. In other case registered u/s.302 of IPC, the applicant was granted bail. There is no evidence to establish complicity of applicant in the said crime. Bail granted to him was cancelled on account of registration of present offence. The applicant has challenged the order cancelling bail and the application is pending in this Court.

7. The FIR was registered u/s.307 of IPC on 25th July 2018. The injured was targeted by two persons, one of them was riding the motorcycle and another shot at him. The injured has sustained injury and was required to be hospitalized. Subsequently he was discharged. Previous application of applicant was rejected by this Court. However, after rejection of said application there is lapse of sufficient time. The applicant is in custody for a period of about two years and eight months. Previous application was rejected on 26th February 2020. I have perused the medical certificate of injured person, statements of witnesses. The applicant is allegedly the conspirator to commit crime. The applicant was granted bail for offence u/s.302 IPC vide CR No.113 of 2017 registered with Kavthe Mahalal Police Station for offence u/s.302 IPC. While granting bail to the applicant vide order dated 9th October 2017 in the said FIR, it was observed that applicant was arrested on suspicion and circumstantial evidence. Applicant was granted bail in CR No.113 of 2017 which was cancelled vide order dated 16th March 2018 on the ground that he was involved in present offence u/s.307 IPC. The order cancelling bail is under challenge before this Court. The son of applicant is ailing. Requisite medical papers are annexed to this application. Other accused were granted bail by Sessions Court. Accused Amit Naik was granted bail by order dated 22nd February 2019. Accused Vijay Kumar @ Akshay Patil was granted bail by order dated 23rd May 2019. Accused Pintu @ Sitaram Bajbale was granted bail by Sessions Court vide order dated 17th July 2019. Accused Hambirrao Khot was granted bail. Sunil Lingle was also granted bail by Sessions Court. Considering the aforesaid circumstances, applicant need not be detained further in custody.

8. Hence, I pass following order :

ORDER

- (i) Bail Application is allowed and disposed of;
- (ii) The applicant is directed to be released on bail in connection with CR No.212 of 2018 registered with Kavthe Mahakal Police Station, on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall stay out of jurisdiction of Kavthe Mahakal Police Station till further orders;
- (iv) The applicant shall furnish details of his place of residence to Investigating Officer, as to where he would reside after he is released on bail;
- (v) The applicant shall attend Trial Court on every date of hearing regularly, unless exempted by the Trial Court;
- (vi) The applicant is permitted to furnish provisional cash bail in the sum of Rs.25,000/- for eight weeks in lieu of sureties;
- (vii) Interim Application is disposed of.

(PRAKASH D. NAIK, J.)

MST