

BDP-SPS-TAC

BHARAT
DASHARATH
PANDIT

Digitally signed by
BHARAT
DASHARATH
PANDIT
Date: 2021.12.16
17:43:38 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1025 OF 2021

SANTOSH BALARAM VISHE

....Applicant.

V/s

THE STATE OF MAHARASHTRA

.....Respondent

Mr. R. D. Suryawanshi for the Applicant.

Mrs. Aruna Pai, Spl P. P. a/w Mrs. J.S. Lohokare, APP for the State.

CORAM: NITIN W. SAMBRE, J.

DATE: DECEMBER 07, 2021

P.C.:-

1] Applicant came to be arrested on 14/11/2016 for the offence punishable under Sections 302, 307, 142, 143, 147, 148, 149, 341 of the IPC, under Sections 4 and 25 of the Arms Act and under Sections 37(1) of the Maharashtra Police Act in C.R. No.I-337 of 2015 registered with Ambernath Police Station, District Thane.

2] Prosecution case against the Applicant is, deceased Ramesh, a

siting Councilor of Ambernath Municipal Corporation was murdered on 25/12/2015. Applicant, who is one of the co-accused, hatched conspiracy, made available external support for the execution of the aforesaid crime.

3] Counsel for the Applicant Mr. Suryawanshi, apart from claiming parity with co-accused Ashish Sawane who was ordered to be released on 27/10/2021 in Bail Application No.345 of 2020, would urge that direct involvement of the Applicant in crime cannot be inferred. He would claim that the only oral attribution to the Applicant is that of supplying details about movement of deceased on mobile to co-accused Shivdas. It is further claimed that Honda two wheeler which is shown to be recovered from the custody of the Applicant does not belong to Applicant. Further contention is, Applicant has suffered sufficient incarceration for last more than five years and that being so, he is entitled to be released on bail.

4] The learned Special Public Prosecutor Mrs. Aruna Pai assisted by Mrs J. S. Lohokare, learned APP, would urge that investigation carried out depicts involvement of the Applicant in the offence punishable

under Section 149 and 302 of the IPC. She would claim that trial in the offence is already commenced and evidence is recorded.

5] It is further claimed that the Applicant is involved in an offence which is punishable with life or death and therefore the Applicant does not deserve any relief from this Court.

6] Considered submissions.

7] There is hardly any evidence on record to infer involvement of the Applicant in murdering deceased Ramesh. The only role attributed to the Applicant is of supplying information to the co-accused Shivdas on mobile about movement of the deceased Ramesh. There is recovery of mobile and motor-cycle from the Applicant. The injury suffered by the deceased cannot be attributed to the Applicant. There are no criminal antecedents against the Applicant and he has suffered incarceration for last more than five years. In all there are 74 witnesses cited in the trial and as such same is likely to take considerable time. In that view of the matter, Applicant deserves to be released on bail.

8] In the result, following order is passed:-

: ORDER :

(a) Applicant – Santosh Balaram Vishe shall be released on bail in C.R. No.I-337 of 2015 registered with Ambernath Police Station, District Thane on furnishing P. R. bond to the extent of Rs 25,000/- with one or more local sureties of the like amount.

(b) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case so as to dissuade him from disclosing the facts to the Court or any Police Officer and shall not tamper with the prosecution evidence.

(c) The Applicant shall not step in Ambernath Taluka till conclusion of the trial.

(d) The Applicant shall mark his presence before the Crime Branch, Thane (Unit 1) on every Friday between 10.00 A.M. to 2.00 P.M.

(e) Failure to report to the Police Station as directed, without prior permission of the Officer to whom he is reporting on more than two occasions,

will entitle the prosecution to move for cancellation of bail.

- 9] The Application is allowed in the aforestated terms.

(NITIN W. SAMBRE, J.)