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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1202 OF 2021

GANESH BHASKAR JOGDANDAPPLICANT
@ PINTYA, NEE GANESH BHASKAR
DHONDIBA

V/s.

THE STATE OF MAHARASHTRARESPONDENT

Mr. Deepak Sharma for the applicant
Mr. Vaibhav Bagade, Spl PP a/w Ms. Sharmila S. Kaushik APP for the
State

CORAM : NITIN W. SAMBRE, J.

DATE: NOVEMBER 24, 2021.

P.C.:

1] Applicant is seeking regular bail in C.R. No. 142/2018 registered with Samata Nagar Police Station for Offences punishable under Sections 302, 120(B), 216, 201 r/w 34 of the Indian Penal Code and under Sections 37(1)(a) and 135 of the Maharashtra Police Act and Sections 4 & 25 of the Indian Arms Act.

2] Application is pressed on the ground of parity as according to

him, other co-accused namely Sohail Dohia, Deepak Hanwate and Vishal Gaikwad are released on bail by this Court in Bail Application Nos. 2965/2018, 2513/2019 and 2595/2019 respectively.

3] According to applicant, in the statement of co-accused namely Rushikesh Bhosale, it is specifically stated that applicant was not part of the conspiracy hatched by the co-accused about murder as the applicant was made to understand that his vehicle hired only for the purpose of faring the accused persons with an intention to recover the amount.

4] Learned APP opposed the prayer on the ground that applicant's case cannot be treated at par with three co-accused who are released on bail. He would try to justify prima facie involvement of the applicant based on complicity.

5] Considered submissions.

6] Applicant is owner and driver of autorickshaw which has plied

the main accused persons in the matter of commission of serious crime.

7] While three main accused were travelling in auto-rickshaw, applicant trailed the victim for almost three hours, enjoyed alcohol with them. From the statement of juvenile co-accused Rushikesh, it is apparent that the bag containing weapons which are used in the commission of crime was kept in auto-rickshaw. Even otherwise, Section 27 of the Indian Evidence Act does not bind the disclosure on the others.

8] If the statement that the applicant was not knowing about the intentions of the main accused is considered, least that was expected of the applicant was to immediately inform about the offence to the police and not to abscond from the spot of the incident.

9] It appears that auto-rickshaw owned by the applicant was hired with prior intimation of recovery of amount as is claimed however, entire conduct of the applicant of following the deceased prior to

execution of offence of murder from place to place with the main accused apparently speaks of applicant's complicity in the crime.

10] In the aforesaid background, the claim put forth that applicant's case is at bar with other co-accused cannot be accepted. There is enough material on record to infer direct involvement of the applicant in the crime in question. That being so, no case for bail is made out. Application stands rejected.

[NITIN W. SAMBRE, J.]

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