

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

CRIMINAL BAIL APPLICATION NO. 1609 OF 2021

Raju @ Hidar @ Mohammed Khan Applicant
Versus
The State of Maharashtra Respondent

Ms. Misbaah Solkar i/b Amin Solkar, for the applicant.
Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM: SARANG V. KOTWAL, J.
DATE : 30th APRIL, 2021
(Through Video Conferencing)

P.C. :

1. The applicant is seeking his release on bail in connection with C.R No. I-551/2018 registered at Shahapur Police Station, Thane, on 16/11/2018 under sections 302, 201, 364, 397 read with Section 34 of the Indian Penal Code, under Section 3 and 25 of the Indian Arms Act and under sections 50(1) and 177 of Motor Vehicles Act.

2. Heard Ms. Misbaah Solkar, learned counsel for the applicant and Ms. Pallavi N. Dabholkar, learned APP for the State.

3. The prosecution case is that accused Jaysingh

Thakur, Prabhakar @ Anju Manoj Singh and Dulal Bhola Mandal sat in the car of the deceased Arvind Dixit under the pretext of going to Kasara. When their vehicle reached a secluded spot they committed murder of Arvind Dixit by firing at him. His dead body was thrown near a road. His car was taken away by putting a fake number plate. The charge-sheet specifically mentioned that the main offence are alleged against other three accused. As far as the applicant who has shown as accused No. 4 is concerned, it is mentioned that, he had committed offence under section 3 and 25 of the Arms act by supplying fire arm to the main accused.

4. Learned Counsel for the applicant submitted that the applicant was arrested on 07/2/2019 and since then he is in custody. The investigation is over and the charge-sheet is filed. Therefore his further custody is not required. There is nothing to show that the applicant was part of conspiracy to commit murder or that he had taken any part in commission of murder. She further submitted

that, even otherwise, there is nothing to show that the applicant had given this particular fire arm to any of the main accused Nos. 1, 2 and 3.

5. Though the learned APP opposed this application, she could not point out anything from the charge-sheet to show that the applicant had given this particular fire arm, which was the murder weapon, to the main accused.

6. I have considered these submissions and with the assistance of both learned Counsel, I have perused the entire charge-sheet. Post mortem note shows that death was due to fire arms injuries. The main allegations in the charge-sheet are directed against other three accused. As mentioned earlier, though there are allegations against the present applicant in the gist mentioned in the charge-sheet that he has supplied murder weapon to the main accused; from the entire charge-sheet, learned APP could not point out any

material to support this allegation.

7. Learned Counsel for the applicant has also relied on the order passed by this Court (Coram:S.K. Shinde,J.) on 12th March 2021, in Bail Application No. 3452 of 2019 With Bail Application No. 3017 of 2019. By that order the applicant was granted bail in connection with C.R. No. 472 of 2018 registered at Narpoli Police Station. Even in that case, similar allegations were made that the fire arms were supplied by the applicant to the same accused namely Jaysingh Thakur and Dulal Mandal.

8. The reasoning in that order is also applicable to this case particularly when there is nothing in the charge-sheet to show that the applicant had supplied fire arms to the main accused by which they had committed the murder. In any case, gist of the charge-sheet mentioned that the accusation of commission of main offence were against to the other accused. The applicant was charged with sections 3 and 25 of the Indian Arms Act by the

investigating officer while filing the charge-sheet.

9. In this view of the matter, the applicant can be granted bail. Learned Counsel for the applicant submits that the applicant is ready and willing to furnish local sureties. Considering the background of the case, some conditions will have to be imposed on the applicant.

10. Hence the following order.

ORDER

- (i) In connection with C.R. No. I-551 of 2018 registered with Shahapur Police Station, Thane, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two local sureties in the like amount.
- (ii) The applicant shall attend the concerned Police Station once in a month for a period of two years from today.
- (iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)