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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2920 OF 2021**

IMRAN AYUB SHAIKH	Applicant.
V/s	
THE STATE OF MAHARASHTRA	Respondent

**ALONGWITH
INTERIM APPLICATION NO. 2460 OF 2021
IN
CRIMINAL BAIL APPLICATION NO. 2920 OF 2021**

MANOJKUMAR RAMSAHKIVAN DUBEY	Applicant/Intervener
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In the matter between

IMRAN AYUB SHAIKH	Applicant.
V/s	
THE STATE OF MAHARASHTRA	Respondent

Mr. Rajiv Chavan, Senior Advocate i/b Rahul Arote for the Applicant.
Mr. M. G. Patil, APP for the Respondent/State.
Mr. Satyaram R. Gaud for the Intervener/Complainant.

CORAM: NITIN W. SAMBRE, J.

DATE: DECEMBER 03, 2021

P.C.:-

1] Applicant who was arrested and chargesheeted in C.R. No. 306 of 2019 registered with Ghatkopar Police Station for the offence punishable under Sections 302, 120-B of the Indian Penal Code,

Sections 3, 4 and 25 of the Arms Act and Sections 37(1), 135, 142 of the Bombay Police Act, is seeking regular bail.

2] Prosecution case is, deceased Sanjay @ Bablu was on inimical terms with the Applicant, who hatched criminal conspiracy and alongwith other four co-accused, caused murder.

3] Prosecution case against the Applicant purely rests on Section 120B of the IPC i.e. hatching of criminal conspiracy. The motive attributed to the Applicant is, his sister unsuccessfully contested election as a sponsored candidate of the said political party in last corporation elections against the candidate who was sponsored by Sanjay @ Bablu.

4] The submission of learned Senior Counsel Mr. Rajiv Chavan appearing for the Applicant is, Applicant is falsely implicated in crime. He would invite my attention to the contents in the complaint lodged by Mr. Manojkumar, brother of deceased Sanjaby @ Bablu. According to him, what is stated in the statement of 2017, Accused persons misidentifying him to be Bablu assaulted him, is absolutely false. So

as to substantiate the same, he has invited my attention to the contents in the FIR which has resulted into registration of offence being C.R. No.214 of 2017, punishable under Sections 324, 307, 504, 141, 143, 144, 147, 148, 149 of the IPC, Sections 4 and 25 of the Arms Act and Section 37 of the Maharashtra Police Act. Mr. Chavan then would urge that there is hardly any material to connect the Applicant with the offence in question, particularly involvement on the ground of hatching conspiracy. He would further claim that even the co-accused who is claimed to be involved in the offence of 2017 is falsely implicated and has sought support from the statement of Investigating Officer viz. Gangaram recorded on 29th June, 2019 in the present crime. Mr. Chavan would also urge that CDRs relied on are not of the period in which offence is registered and that being so, there is hardly any material to infer meeting of mind between the Applicant and other co-accused for execution of the crime.

5] Learned APP Mr. Patil assisted by Counsel for the complainant Mr. Gaud, would urge that material on record in categorical terms depicts the Applicant being member of a group who has hatched criminal conspiracy so as to cause offence of murder. It is further

claimed that deceased Bablu has lodged a complaint as the Applicant alongwith other four co-accused has issued threatening letters which resulted into registration of complaint with the police authorities. Reliance is also placed on CDRs *inter se* between the Applicant and other co-accused viz Vijay Akhade and Gopal Nadar so as to claim that in all there were 23 and 18 calls respectively.

6] I have perused the charge-sheet with the assistance of respective Counsels. There is no direct role attributed to the Applicant in commission of crime but for criminal conspiracy. Prosecution case rests on the statement of complainant Mr. Manojkumar, - brother of deceased Sanjay @ Bablu, Ganesh N. Patil whose so-called mother contested successful election against the sister of the Applicant, Shubham V. Kadam, Anil P. Yadav and Ramprasad V. Gupta. As far as these witnesses are concerned, they have attributed role of conspirator to the present Applicant. As such, role of conspirator is sought to be established based on unsuccessful contest of the sister of the Applicant against so-called mother of witness Ganesh, the CDR details between the accused persons viz Vijay and Gopal. Fact remains that CDR details which speak of communication between the Applicant and co-

accused Vijay and Gopal were much prior in point of time. The offence is committed on May 20, 2019, whereas alleged conversation from CDR details with co-accused Vijay was on 29/4/2019 and with Gopal on 1/5/2019. Apart from above, even if statement of the Applicant recorded during investigation and that of other co-accused if considered, the said statement wont bind the Applicant or other co-accused *inter se*. The court is required to be sensitive to the provisions of Section 10 of the Evidence Act. Apart from above, in 2017 offence referred to above i.e. Crime No.214 of 2017, the Investigating Officer Gangaram has categorically stated that absconding accused Santosh Mane @ Chhotu was not involved in the said offence.

7] In the aforesaid backdrop, suffering of incarceration by the Applicant for last more than six months based on circumstantial evidence and the availability of the Applicant for facing trial warrant this Court to grant bail. Though it is claimed that there are criminal antecedents against the Applicant, however, in the backdrop of the statement of Investigating Officer Gangaram, in my opinion, same will be hardly of any consequences to reject the prayer for bail.

8] As such, Applicant is directed to be released on bail in C.R. No. 306 of 2019 registered with Ghatkopar Police Station for the offence punishable under Sections 302, 120-B of the Indian Penal Code, Sections 3, 4 and 25 of the Arms Act and Sections 37(1), 135, 142 of the Bombay Police Act, on executing P. R. Bond in the sum of Rs 15,000/- with one or more sureties in the like amount. Applicant shall neither directly or indirectly try to influence the prosecution witnesses or tamper with the evidence. Applicant shall attend the trial regularly. Any two consecutive absence of the Applicant to appear before the Trial Court would result into Trial Court taking out suo motu proceedings for cancellation of the bail of the Applicant.

9] Application is disposed of. As a consequence, Interim Application taken out in the said Application is also disposed of.

(NITIN W. SAMBRE, J.)