

212, 465, 468, 201 of the Indian Penal Code (“IPC” for short) and Sections 3/25, 4/25, 27 of the Indian Arms Act (“Arms Act” for short) and Section 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999 (“MCOC Act” for short).

2 It is the case of prosecution that the informant’s nephew, namely, Sandip @ Gondya Macchindra Varal (since deceased) was a sarpanch of village for about two years prior to the incident. On account of a dispute amongst the stall owners in the village fair, a quarrel had ensued between Sandip and Pravin Ananda Rasal and his associates and accordingly the deceased had lodged the report. According to prosecution, while accused Pravin and his associates were in jail the present applicants and co-accused Khandu Vitthal Bhukan, Prashant Dnyandeo Varal, Dr. Mahendra Laxman Zaware and Amruta Mahadu Rasal hatched the conspiracy with Pravin Ananda Rasal and his associates. They allegedly provided moneys to kill the deceased.

3 The prosecution alleges that on 21/01/2017 at about 1-00 p.m. informant met the deceased and his friend Dnyaneshwar @ Mauli Warkhade (applicant). After having some discussion, the deceased went for purchasing sweets and for having a shave and told him to reach the sweetmeat shop. At about 2.10 p.m. when informant along with his

nephew Akash Vijay Varal reached near sweetmeat shop, they heard noise of firing and a hue and cry in front of the hospital of Dr. Lalage. They saw one Rahul Ramdas Sabale, Nagesh Tulshiram Lokhande, Girish @ Giryra and 5 to 6 unknown persons were assaulting deceased with swords and chopper. He was also fired with a pistol and assaulted with stones and pieces of tiles. With a view to spread terror, those persons were firing in the air as well. It is further alleged that Pintya Ananda Rasal, Vikas Ananda Rasal, Mauli Ananda Rasal, Akshay Zumbar Lude, Pasha @ Prashant Barde, Gokul Lanke, Sachin Dhondibhau Rasal, Swapnil Dhondibhau Rasal, one Bhaiya and one Mukhtar Inamdar were instigating the assailants. The assailants then fled away on motorcycles. The deceased was shifted to the hospital, however, he was declared dead. FIR accordingly came to be lodged.

4 Mr. Sejpai, learned counsel for the applicants, submits that there are general statements of witnesses which do not specify the role of the applicants. Even otherwise, both the applicants were not present at the time of incident. Learned Counsel then took me through the statements of various witnesses which are also relied on by the prosecution. I would be referring those statements at an appropriate stage. According to learned Counsel, accused Mukhtar Inamdar has been enlarged on bail

and since the applicants are also similarly situated, they deserve to be released on bail on the ground of parity.

5 Mrs. Malhotra, learned APP, on the other hand, invited my attention to the Affidavit-in-Reply of the Investigating Officer and pointed out that having regard to the nature of offence, the applications do not merit attention and are liable to be rejected.

6 Perused investigation papers and the Affidavit-in-Reply of the Investigating Officer. From the FIR itself it is clear that the present applicants were only instigating the assailants and nothing else.

7 The first statement is that of Yogesh Kishan Lanke dated 22/01/2017. According to him, 10 to 12 days before the incident in question, he had been to the field of Dr. Zaware. There were other accused also and he heard that since the influence of deceased is increasing day by day accused Pravin told that it is necessary to do something with the deceased. Even he heard accused Pravin Rasal asking others to get the services of the boys from outside the village in order to eliminate the deceased and that he would see the rest of the things. However, it appears that the statement of this witness is

recorded again on 25/09/2018 and he denied of having stated anything so as claimed in the statement dated 22/01/2017. Thus whatever is stated in the statement dated 22/01/2017 goes away in view of the subsequent statement given on 25/09/2018.

8 The next statement is that of Smt.Namrata Vilas Harde. According to her, 8 days prior to the incident she had been to the clinic of Dr. Mahendra Zaware as she was not keeping well. There were other accused, namely, Pravin Rasal, Khandu Bhukan, Amruta Rasal, Mukhtar Inamdar etc. Accused Pravin Rasal was saying that although the deceased could save his life at Chincholi ghat but they should keep moneys ready and he would kill the deceased within 8 to 10 days.

9 Another statement is that of Smt. Sunita Vijay Uchale, who also repeats the same as stated by the earlier witness, namely, Smt. Namrata Vilas Harde.

10 Next statement is that of Dhondibhau Mahadu Jadhav, which is similar to the very first statement of Yogesh Lanke dated 22/01/2017.

11 The statement of Vilas Appasaheb Harde is similar to the

statements of witnesses, namely, Namrata Harde and Sunita Uchale.

12 From the above statements of witnesses what emerges is that they all had heard the discussion about the elimination of deceased at the hands of accused Pravin Rasal and others. No specific role of the present applicants is attributed.

13 I have already pointed out the role of present applicants as alleged in the FIR was only to the extent of instigation. In this regard, I may point out that accused Mukhtar Inamdar was alleged to have instigated as well and he has been enlarged on bail by learned Special Judge (MCOC), Nashik on 04/06/2018. I have perused the bail order. In my considered opinion, the role of the present applicants is no different than that of accused Mukhtar Inamdar, who is already admitted on bail by the learned trial Judge.

14 The Affidavit-in-Reply of the investigating officer given semblance that since the applicant-Dnyaneshwar @ Mauli Ananda Rasal is real brother of main accused, namely, Pravin Ananda Rasal, he has been roped in.

15 Having regard to the nature of accusation, I am of the view that Section 21(4) of the MCOC Act will not be hurdle in the way of applicants inasmuch as they have made out their case for bail otherwise on merits. Hence, the following order.

ORDER

(i) Applicants- Dnyaneshwar @ Mauli Ananda Rasal and Pintu Ananda Rasal shall be released on bail in C.R. No. I-19 of 2017 registered with Parner Police Station, District- Ahamednagar on their executing P .R. bond in the sum of Rs.1,00,000/- (Rupees One Lakh only) each, with one or more sureties in like amount.

(ii) The applicants shall attend, except for very genuine reason, each and every date of the Court without fail, failing which they would entail the cancellation of the bail.

(iii) The applicants shall also attend the concerned police station on the 15th day of each month between 11-00 a.m. to 2-00 p.m. till conclusion of trial.

(iv) The applicants shall not tamper with prosecution evidence.

(v) The observations made herein-above are prima-facie in its nature

for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.

(vi) Bail before the trial Court.

(vii) The application is allowed in the aforesaid terms and stands disposed of accordingly.

REKHA
PRAKASH
PATIL

(V. G. BISHT, J.)

Digitally signed by
REKHA PRAKASH
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