

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1692 OF 2022

RAVINDRA S/O. RAMESH KHOLLAM
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Balraj Prakash Pande
PP for Respondent/State : Mr. D. R. Kale
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CORAM : S. G. MEHARE, J.

DATE : 19-10-2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned P.P. for the respondent/State.
2. The applicant has been arraigned as an accused for double murder. It has been alleged against the applicant that he was supporting the candidate of the political party who won the election. After the election, the quarrel took place. The applicant has played an active role in the commission of the offence.
3. The prosecution has a case that immediately after the incident the deceased father of the first informant, told the first informant on phone that, the persons named in the first information report and other five to six unknown persons were chasing Vasant Ananda Thube holding the sickle, sword and pistol.

4. The learned counsel appearing for the applicant has referred to the telephonic conversation between deceased Sanjay Keshav Kotkar and himself, as well as with his wife. He would submit that the telephonic conversation does not link the circumstances against the applicant. He would also argue that deceased Sanjay Kotkar was threatening him under the misunderstanding that the applicant had paid bribe to the voters and therefore their candidate lost the election. He has also referred to the specific conversation between deceased Sanjay Kotkar and the applicant that he was abusing him in filthy language and calling him to meet. However, the prosecution has no evidence that soon before or after the incident, applicant Ravindra Kholam has a phone call with main accused Vishal Kotkar.

5. The learned counsel for the applicant would fairly argue that assailant Sandip Gunjal made phone call to the informant and was asking about the location of the deceased. He has also vehemently argued that one of the conversations shows that after the incident, the applicant received the message of the incident. That time, he was in the field/garden. He would also refer to conversation of his wife and would argue that she was asking for help. In a nut-shell, he has argued whatever evidence collected by the Investigating Officer, is not sufficient to complete the chain of circumstances. On the contrary, the deceased was threatening him. Therefore, he was avoiding to meet him. The applicant is

languishing in jail since 19.04.2018. The learned counsel for the applicant would also argue that the applicant has been arraigned as an accused only because the incident happened in front of his house. There were no antecedents to his discredit. However, this was his first bail application. He has his family responsibilities. Hence, he may be released on bail.

6. The learned P.P. for the respondent/State has vehemently argued that the offence is obviously serious. The phone call of main culprit Sandip Gunjal was received to the applicant and he gave him a tip that both the deceased were coming to the location/spot of the incident. All the conspirators have plotted the conspiracy to trap both the deceased in their locality and the applicant was playing active role in trapping them at the place where the murders were committed. It has also been argued by the learned P.P. for the State that the conversation amongst the accused proves the chain of circumstances. The applicant was the active worker for the main accused. He has played active role. Though, the applicant has no direct phone call with main accused Vishal Kotkar, but his continuous calls just before the incident proves the link that the applicant was part of the conspiracy. The learned P.P. has also argued that a short time before the incident, he saw the applicant going towards the spot of the incident armed with weapon. This 'last seen' evidence also supports the prosecution case. The offence is serious and grave. Hence, the

applicant may not be granted bail.

7. The record reveals that the applicant never contacted the main conspirator Vishal Kotkar and the assailant Sanjay Gunjal. However, he was receiving a phone call from deceased Sanjay Kotkar. He was calling him to meet. Thereafter, he made phone call to one Bhanudas Kotkar and then he received phone of other co-accused. However, there is no direct evidence that the applicant was in the company of the other co-accused. He had received phone call from the deceased just before the incident. That apart, the postmortem report shows that the deceased had fire mark and stab injury and there were no other injuries. Perusal of the chargesheet reveals that it cannot be said, at this juncture, that the prosecution has no evidence to prove the chain of circumstances. For want of the strong evidence against the applicant, it would be inappropriate to keep him behind bars. The applicant deserves bail. Hence, the following order :-

- i) Application is allowed.
- ii) Applicant Ravindra s/o. Ramesh Kholam be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in C.R.No.136 of 2018 registered with Kotwali Police Station, District Ahmednagar, for the offences punishable under Sections 302, 303, 120B, 144, 145, 147, 148, 149, 504, 506 of the Indian Penal Code and

Sections 3, 4 and 25 of the Arms Act, on the conditions that (a) the applicant shall not tamper with the prosecution witnesses, (b) he shall not contact any of the witnesses in any mode or manner, and (c) he shall not enter the village Kedgaon, Taluka and District Ahmednagar, for a period of one month from the date of his release.

iii) Bail before the concerned trial Court.

(S. G. MEHARE)
JUDGE

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