

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 1383 OF 2021

Ajay Uttam Bhandare @ Bhandari	... Applicant
Versus	
The State of Maharashtra	... Respondent
....	
Mr. Amol S. Sawant, Advocate for applicant	
Mr. S. P. Sonpawale, APP for respondent - State	
....	

CORAM : R. G. AVACHAT, J.

DATED : 29th AUGUST, 2022

PER COURT :-

1. This is an application for bail under Section 439 of the Code of Criminal Procedure. The applicant has been arrested in connection with Crime No.0067/2020, registered at Mohadi Police Station, District Dhule, for the offences punishable under Sections 302, 504, 506, 120(b) read with 34 of the Indian Penal Code and under Section 3/25 of the Arms Act and under Sections 3(1)(i), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act (MCOCA).

2. Heard. Perused the First Information Report (FIR) and related papers.

The FIR has been lodged by the nephew of the deceased Rahul Kashinath Mind, on 18.07.2020. The applicant and 21 others are alleged to be the members of organized crime syndicate. All of them allegedly committed murder of Rahul, opposite hotel Mahakal, near laling toll naka, along Mumbai - Agra highway at Dhule. The name of the applicant has been figured in the FIR along with the others. The applicant has been arrested on 22.07.2020.

3. The learned APP would submit that it is an organized crime. The name of the applicant has been figured in the FIR. Eye witnesses to the incident also named the applicant as one of the assailants. He, therefore, urged for rejection of the application. More so, the offence being commissionable with capital punishment.

4. It is true that, in the FIR and in the statements of the witnesses to the incident, the name of the present applicant figures. The prosecution is also relying on two CCTV footages. It is the case of the prosecution that all the culprits, 22 in number, came on seven motorcycles. Their arrival has been captured in the CCTV footage at the hotel and also in a CCTV camera at the toll naka. The informant was shown both the CCTV footages. A transcript thereof is the part of police papers. The applicant is not seen along with other co-accused

in both the CCTV footages. He has been in jail for little over two years. Trial has not yet commenced. The applicant having not been seen in the CCTV footages and in view of this, the CCTV footage prevails over eye witness account at least for grant of bail to the present applicant. Hence, following order:

ORDER

- (i) The Bail Application is allowed.
- (ii) The applicant be released on bail in connection with Crime No.0067/2020, registered at Mohadi Police Station, District Dhule, for the offences punishable under Sections 302, 504, 506, 120(b) read with 34 of the Indian Penal Code and under Section 3/25 of the Arms Act and under Sections 3(1)(i), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act (MCOCA), on his executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond of the like amount.
- (iii) The applicant shall not enter Dhule, until conclusion of the trial.
- (iv) The applicant shall not tamper with the prosecution evidence.

[R. G. AVACHAT, J.]