

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1596 OF 2022

Vishal Balasaheb Kotkar,
Age 33 years, Occu. Business,
R/o. Kotkar House, Eknath Nagar,
Kedgaon, Ahmednagr .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr. Joydeep Chatterji, Advocate for Applicant;
Mr. D. R. Kale, Public Prosecutor for the Respondent/State

WITH
CRIMINAL APPLICATION NO. 3558 OF 2022
IN BA/1596/2022

1. Sangram s/o. Sanjay Kotkar,
Age 30 years, Occu. Private Sector,
R/o. Nepti Road, Behind Hotel Archana,
Kedgaon, Taluka and District Ahmednagar
2. Pramod s/o. Ananda Thube,
Age 39 years, Occu. Labour,
R/o. Sonewadi Road, Thubemala,
Kedgaon, Ahmednagar,
Taluka and District Ahmednagar .. Respondents

Versus

1. Vishal s/o. Balasaheb Kotkar,
Age 30 years, Occu. Business,
R/o. Kedgaon, Ahmednagar,
Taluka and District Ahmednagar
2. The State of Maharashtra .. Respondents

Mr. N. B. Narwade, Advocate for Applicants;
Mr. Joydeep Chatterji, Advocate for Respondent No.1;
Mr. D. R. Kale, P.P. for Respondent No.2/State

CORAM : S. G. MEHARE, J.

DATE : 19-10-2022

PER COURT :-

1. Heard the learned counsel for the applicant, the learned P.P. for the respondent/State and the learned counsel for the complainant.

2. The applicant is claiming bail on the ground of parity. The learned counsel for the applicant would contend that the role attributed to the applicant was similar to the co-accused, who have been granted bail, and more particularly, the role attributed to one of the co-accused Mahaveer @ Pappu Ramesh Mokale.

3. It is not in dispute that the learned Additional Sessions Judge, Ahmednagar had rejected the bail of the present applicant considering the chargesheet. Thereafter, after rejection of the bail by the learned Sessions Court, the applicant had filed an application for bail before this Court, but leave was sought to withdraw the application with liberty to file fresh bail application, on the ground of parity. The learned counsel for the applicant has tried to take the Court through the chargesheet. He would argue that the role attributed to this applicant is far lesser than the role attributed to co-accused Mahaveer Mokale. It is the stand of the present applicant that he was not present on the spot of the incident.

4. The prosecution has strongly opposed the application. The learned P.P. would contend that the applicant is main conspirator. At his instance, assailant/accused No.2 Sandip Gunjal murdered two persons with fire arm and brutally cut the throat of deceased Sanjay Kotkar. The learned P.P. would argue that the role attributed to the present applicant and the evidence collected against him, is altogether different from the co-accused, who have been released on bail.

5. The learned Sessions Judge was pleased to grant bail to co-accused Mahaveer Mokale observing that the statement of sole witness goes to show that he was obstructing people from proceeding towards the spot of the incident. Except the said statement, no role or any incriminating evidence is against the said accused. On these peculiar facts, the bail was granted to the co-accused.

6. The prosecution, since beginning, has a stand that soon before the incident, the present applicant was in contact with the assailant Sandip Gunjal. The chargesheet prepared by the Investigating Officer has been referred by both counsel. That goes to show that immediately before the incident, the applicant was in contact with Sandip Gunjal, and thereafter, in short time two persons were killed near the house of deceased. The chargesheet also reveals that after winning the election, incident happened.

The applicant was winning candidate. The deceased was threatening one of the accused on telephone. After telephonic contact with Sandip Gunjal, he took the location of the deceased from the co-accused Ravi Kholam, and then immediately murders were committed.

7. Law of parity would be applied in granting bail to accused, where co-accused has been granted bail on similar set of circumstances. Law of parity is desirable rule where case of accused is identical with co-accused, who is already enlarged on bail. After having gone through the role attributed to the applicant and the role attributed to the co-accused, who has been granted bail, the Court is of the view that the circumstances against the applicant are not similar to the other co-accused, who have been granted bail. Hence, the Court records a finding that the applicant is not entitled to bail on the ground of parity. Hence, the application stands dismissed.

8. Criminal Application No. 3558 of 2022 stands disposed of.

(S. G. MEHARE)
JUDGE

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