

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

BAIL APPLICATION NO.1514 OF 2021

Dipak @ Bhausahab Baburao Singar,
Age-47 years, Occu:Agri.,
R/o-Bhojade Chowki, Tq-Kopergaon,
Dist-Ahmednagar.

**...APPLICANT
(Orig. Accused No.16)**

VERSUS

The State of Maharashtra,
Through Police Station Officer,
Kopergaon Rural Police Station,
Tq-Kopergaon, Dist-Ahmednagar.

...RESPONDENT

...
Mr.Nitin R. Bhavar Advocate for Applicant.
Mr.A.M. Phule, A.P.P. for Respondent-State.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE OF RESERVING ORDER : 12th AUGUST 2022

DATE OF PRONOUNCING ORDER : 22nd SEPTEMBER 2022

ORDER :

1. The applicant has been arrested in connection with First Information Report (for short "FIR") vide Crime No.88 of 2020

registered with Kopargaon Taluka Police Station for the offence punishable under Sections 302, 452, 143, 147, 148, 149, 120-B of the Indian Penal Code and under Sections 3, 4, 7, 25 and 27 of the Indian Arms Act.

2. The applicant is accused No.16 and he came to be arrested on 20th May 2020. The investigation is over and charge-sheet is before the learned Magistrate.

3. Heard learned Advocate Mr. Bhavar for the applicant and learned APP Mr. Phule for the respondent.

4. It has been vehemently submitted on behalf of the applicant that the applicant had filed his Bail Application bearing No.1438 of 2020 under Section 439 of the Code of Criminal Procedure, which came to be rejected by this Court on 10th February 2021. Along with the application of present applicant, bail application of co-accused i.e. accused No.15 Rajendra @ Raju Nanasaheb Bhagwat bearing Bail Application No.1555 of 2020 was also heard and that application was also rejected. But said applicant i.e. co-accused Rajendra Bhagwat had challenged the order passed by this Court by way of Petition for Special Leave to Appeal (Cri.) No.4073 of 2021 and after hearing both

sides the Hon'ble Supreme Court held that it is inclined to grant bail to the petitioner therein and directed the said petitioner i.e. co-accused Rajendra Bhagwat to be released on bail. In fact co-accused Rajendra Bhagwat has been stated to be the main accused in this case and he has been released on bail. Several offences were pending against him which were also noted by this Court and therefore, now, on the ground of parity the applicant is also entitled to be released on bail. Applicant is ready to abide by the terms of the bail.

5. The learned APP strongly opposed the Application and submitted that by a detailed order this Court had rejected the bail application filed by the present applicant. Role of accused No.15 is different and therefore, applicant cannot seek parity as co-accused has been released on bail by the Hon'ble Supreme Court.

6. At the outset it is to be noted that the present applicant is the co-accused of accused No.15 – Rajendra Bhagwat, whose application was considered by this Court along with the bail application filed by the present applicant. Both the applications were rejected. However, the Hon'ble Supreme Court, in the Petition for Special Leave to Appeal, has granted bail to the co-

accused Rajendra Bhagwat. Certainly the ground of parity would be available to the present applicant, however, for that purpose we are also required to consider as to whether the said background / facts have been made out.

7. The FIR has been lodged by one Shamrao Bhimrao Gire, who is father of deceased Suresh. Suresh himself was a criminal and had enmity with one Ravi Shete and his gang. The group of Ravi Shete and the deceased were inimical to each other since 2010 and offences have been registered against each other. In view of murder of one Viresh Shingar, who was the friend of deceased Suresh, by Ravi Shete and his associates in 2012, the enmity became worst. Ravi Shete and his associates are absconding. Deceased Suresh was in fact externed in the year 2019, but after the cancellation of the order of externment, he had come to house on 16th March 2020. Father, the informant had seen murder of his son Suresh committed by Ravi Shete, Vijay Kharde and one unknown person by pistol and sickle-like weapon.

8. Now, as regards the role of the present applicant is concerned, the prosecution case rests on the fact that there were about 26 calls between present applicant and accused

Ramdas Walte between 1st March 2020 to 15th March 2020. Further it is contended that applicant had confirmed the fact that deceased Suresh has returned to home and then he had given said information to accused Ravi Shete and accused Ramdas Walte. The call details are there. As regards the role attributed to co-accused Rajendra Bhagwat is concerned, it was on the basis of discovery panchnama discovering three country-made pistols. Under such circumstance, the evidence that is on record appears to be more serious in respect of co-accused Rajendra Bhagwat and he has been released on bail by the Hon'ble Supreme Court and therefore, now the applicant also deserves to be released on bail. Hence the following order:-

ORDER

(I) The Application stands allowed.

(II) The applicant – Dipak @ Bhausaheb Baburao Singar be released on bail in connection with Crime No.88 of 2020 registered with Kopargaon Taluka Police Station for the offence punishable under Sections 302, 452, 143, 147, 148, 149, 120-B of the Indian Penal Code and under Sections 3, 4, 7, 25 and 27 of the Indian Arms Act, on the same terms and conditions, to be imposed by the trial Court, on which co-accused Rajendra @ Raju Nanasaheb Bhagwat has been released on bail under the

orders of the Hon'ble Supreme Court passed in Petition for Special Leave to Appeal (Cri.) No.4073 of 2021.

(III) In addition to above conditions,

(A) The applicant shall not enter the jurisdiction of village – Bhojade Chowki, Taluka-Kopargaon till the conclusion of the trial. The applicant should reside elsewhere, and before submission of bail papers, he should give complete address of his proposed residence with his Mobile Number to the trial Court as well as to the investigating officer.

(B) The applicant shall comply with the requirements under Paragraph Nos. 12 (1) to (6) of Chapter-I of the Criminal Manual, whichever are applicable.

(C) The applicant shall not indulge in any criminal activity nor shall tamper with the prosecution evidence in any manner.

(IV) Bail before the Trial Court.

[SMT. VIBHA KANKANWADI , J.]