

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 758 OF 2020

Ravindra Parshuram Thakare

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Kabul Labana for the Applicant.

Mrs. S.S.Kaushik, APP for the State.

**CORAM : ANUJA PRABHUDESSAI, J.  
DATED : 26<sup>th</sup> APRIL, 2022.**

**P.C.**

1. This is an application under Section 439 Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Sessions Case No.379 of 2016 pending on the file of Sessions Judge, Kalyan for offences under Section 302, 201, 120B, 34 of Indian Penal Code.

2. Mr.Labana, learned Counsel for the Applicant submits that there is absolutely no evidence to show the involvement of the Applicant in the aforesaid crime. He submits that the co-accused Mukund, to whom the Applicant had allegedly given the contract to eliminate the deceased Vijay Bhoir, has been granted bail by this Court. He submits that the Applicant is in custody since 7.9.2016 and that the charge is yet to be framed. He submits that the involvement of the Applicant in the crime is doubtful and the trial is not likely to conclude within a reasonable time.

He submits that considering the nature of evidence against the Applicant, and the delay in conducting the trial, the Applicant is entitled for bail.

3. Per contra, Mrs. Kaushik, learned APP submits that apart from the statement of Prashant Shinde, there is also recovery pursuant to the disclosure statement made by the Applicant under Section 27 of the Indian Evidence Act. She further states that the CDR details also prove that the Applicant and the other co-accused were in touch with each other and their location was found near the place of the incident. She further states that five crimes were registered against the Applicant. She submits that considering the gravity of the offence and the criminal antecedents, the Applicant is not entitled for bail.

4. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

5. The records prima facie indicate that Ravindra Bhoir had lodged a report on 7.9.2016 alleging that his brother Vijay had left the house on 25.08.2016 at about 12.30 p.m. and that he had not returned home. He had stated that on 25.08.2016, the deceased Vijay was seen in the company of one Rafiq. Pursuant to the said report, Crime No.289 of 2016 was registered. Subsequently, said Rafiq and other co-accused were arrested. Body of the deceased was recovered from grave yard of

Vasudri Nibamvali Village, pursuant to the disclosure statement made by Akshay Bhoir.

6. It is the case of the prosecution that the co-accused Mukund had given contract to the present Applicant to eliminate the deceased. In this regard, the prosecution has relied upon the statement of Prashant Shinde, who has stated that on 10.08.2016, the Applicant had come to the hotel with two others and that they were having some discussion. No Identification parade was conducted to establish the identity of the two persons who had accompanied the Applicant. In fact, the statement of this witness indicates that he was informed by the police that the persons who accompanied the Applicant were the co-accused Akshay Bhoir and Rafiq Shaikh. Said Prashant Shinde had not heard the conversation between the Applicant and the other two persons. Hence the mere fact that the Applicant was having some discussion with two unknown persons would not prima facie prove criminal conspiracy to eliminate the deceased.

7. The prosecution has relied upon the disclosure statement of the Applicant, pursuant to which blood stained bedsheet, jean pant, mat, towel and spectacle were recovered. It is stated that these items were forwarded to the CSFL for analysis in the year 2016. Till date the Investigating Agency has not obtained the CSFL report. Furthermore,

the brother of the deceased was also not shown these articles. Thus there is no prima facie material to show that the clothes and other items allegedly recovered at the instance of the Applicant belonged to the deceased. The CDR details were allegedly of the calls between the Applicant and the co-accused Mukund and one Rafiq prior to 18<sup>th</sup> and 19<sup>th</sup> August, 2016. The said CDR details do not *per se* establish involvement of the Applicant in the aforesaid crime. It is also to be noted that the co-accused Mukund, who had allegedly hatched the conspiracy to eliminate the deceased had given the contract to the Applicant, has been released on bail. In the absence of any other material on record to show the involvement of the Applicant, the Applicant would be entitled for bail on the ground of parity.

8. As regards, criminal antecedents, it is stated that out of five cases, the Applicant has already been acquitted in four cases. Even otherwise, in the absence of prima facie material, to prove involvement of the Applicant, criminal antecedents *per se* would not be a ground to detain the Applicant in custody. The Applicant is in custody since September, 2016. The charge is not yet framed. The trial is not likely to conclude within a reasonable period. Considering this aspect, and considering the nature of accusation and the evidence in support thereof qua the Applicant, in my considered view, the Applicant is entitled for bail. Hence the Application is allowed on the following terms and

conditions:-

- (i) The Applicant who is facing trial in Sessions Case No.379 of 2016 pending on the file of Sessions Judge, Kalyan, be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twentyfive Thousand Only) with one or two solvent sureties in the like amount, to the satisfaction of the learned Sessions Judge, Kalyan;
- (iii) The Applicant shall report to the Investigating Officer or Sr. P.I. of Khadakpada Police station once in month on first Saturday between 11.00 a.m. to 2.00 p.m. until further orders;
- (iv) The Applicant shall attend all the dates before the Trial Court till conclusion of the trial, unless exempted.
- (iv) The Applicant shall not interfere with the complainant or the other witnesses, or tamper with the evidence in any manner;
- (v) The Applicant shall provide his permanent as well as temporary address, if any, and his contact details/ change in contact details to the Investigating Officer;
- (vi) The Applicant shall not change his residential address without prior intimation to the Investigation Officer.

. Application stands disposed of.

PRASANNA P  
SALGAONKAR  
Digitally signed  
by PRASANNA  
P SALGAONKAR  
Date:  
2022.04.30  
14:22:06 +0530

**(ANUJA PRABHUDESSAI, J.)**

