

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

CRIMINAL BAIL APPLICATION NO.3148 OF 2021

Shubham @ Banti Kisan Yadav ...Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Niranjan Mundargi i/b Mr.Rohan N. Hogle for the Applicant.
Mr.Y.Y. Dabke, APP for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 29 MARCH 2022

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SANTOSH
KAMBLE**

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P.C.

. By this Application, the Applicant is seeking bail in
Crime No.59 of 2021 registered with Shirur Police Station, Pune.

2. The Applicant along with co-accused has been
charge-sheeted for the offence punishable under Section 307, 143
147, 148, 149, 120(b), 341 of the Indian Penal Code and under
Section 3,4,25 and 27 of the Arms Act and under Section 3(1)
(ii), 3(4) of the Maharashtra Control of Organised Crime Act,
1999 .

3. I have heard the learned counsel for the Applicant
and the learned Additional Public Prosecutor. Perused record.

4. The prosecution case is that the Applicant and the co-accused being members of an organized crime syndicate had made an attempt on the life of Pravin Gavhane on 26 January 2022 at about 18.00 hours.

5. The specific prosecution case is that the accused Nilesh @ Nanu Kurlap is the gang leader and in order to establish supremacy of the syndicate the accused Nilesh Kurlap had conspired to eliminate Pravin Gavhane and in pursuance of the execution of the said conspiracy an attempt on his life was made.

6. The learned counsel for the Applicant pointed out that only material against the Applicant is a confessional statement of the co-accused Aditya Audumbar Dambare recorded on 8 March 2021. He submitted that the co-accused Aditya Dambare has only attributed a role of supplying a pistol and four magazines and an avenger motor cycle to the co-accused. It is submitted that the confessional statement by the co-accused Aditya is mostly exculpatory in nature and does not answer the requirement of it being a confessional statement. It is submitted that the only recovery made from the Applicant is that of the avenger motor cycle, under section 27 of the Evidence Act. It is submitted that the Applicant has no criminal antecedents against him.

7. This Application was adjourned in order to enable the learned Additional Public Prosecutor to examine the record and make a statement about the material collected against the Applicant.

8. The learned Additional Public Prosecutor in all fairness did not dispute that the prosecution is solely relying on the confessional statement of the co-accused Aditya (which is at page No.617 of the compilation). In otherwords it is not disputed that the role attributed to the Applicant is only of supplying a pistol, magazines and motorcycle to the co-accused.

9. As there are no criminal antecedents against the Applicant, it follows that there is no commonality of any offences between the gang leader and/or any other member of the syndicate and the present Applicant. The Applicant was arrested on 27 January 2021 after which the confessional statement came to be recorded on 8 March 2021. The investigation is complete and the charge-sheet is filed.

10. In such circumstances, I do not find any justification to detain the Applicant behind bars, pending trial.

11. Hence the following order.

ORDER

(i) The applicant-Shubham @ Banti Kisan Yadav in Crime No.59 of 2021 registered with Shiruor Police Station, be released on bail, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.

(ii) The applicant shall undertake to remain present before the learned Special Judge, during the trial, unless exempted.

(iii) The applicant shall not make any contact directly or indirectly or influence or threaten the prosecution witnesses and shall not otherwise tamper with the prosecution evidence/witnesses.

(iv) In the event of breach of any of the conditions, the bail is liable to be cancelled.

(v) The bail bonds to be furnished before the learned Special Judge.

(vi) The Criminal Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.