



Darshan Patil

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

BAIL APPLICATION NO.227 OF 2023

KISHORE KALYAN CHANGHATE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Shailesh Kharat i/b Nagesh S. Khedkar for the Applicant.
Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 30, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 394, 395, 452, 120-B and 34 of the Indian Penal Code, Section 4(25) of the Arms Act, Section 37(1) read with 135 of the Maharashtra Police Act and Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999, registered vide C.R. No.133 of 2021 with Chaturshrungi Police Station, Pune. The First Information Report is dated 04/03/2021. The applicant was arrested on 10/06/2021.

3. My attention is invited to the order below Exhibit 3 passed by the Special Judge in respect of the co-accused No.6 Bharat Badrinath Changhte. The relevant portion of the order reads thus:

"3] Prosecution case arises on the basis of FIR dated 03/03/2021 filed by Anila Dinanath Harfale. She along with her 88 years old husband Dinanath is residing at Pashan, Pune. Her son Mahesh is residing in USA and the daughters are married. Dinanath who was Advocate by profession is suffering from stroke of paralysis from three years. Therefore, Kailas Gholap was working as his care taker. He is also residing in bungalow of the informant.

4] On 03/03/2021 at about 07.30 p.m. when she was in kitchen, two unknown persons in the age group of 25 who covered their face by cloth suddenly came in front of her. They tied her hands and face by means of cloths. Meanwhile, other two unknown persons caught hold Kailas and brought him into kitchen. His hands and face were also tied. They pushed Kailas therefore, he fell down. Somebody switched off the lights of the bungalow. Two of them started torch from their mobiles and were taking search of the valuables. One of them was armed with sickle, another was with knife. They were asking about the place where the valuables were kept. Thereafter, they took the informant from the stair case to bedroom, open the cupboards and took gold ornaments and cash. Thereafter, they took search of the house. One of them who chewed Gutkha spit in house. Thereafter, they went from the rear side door of the bungalow.

11] Incidence occurred on 03/03/2021 while accused were arrested in May 2021. It appears that, under disclosure panchanama at the instance of co-accused Sandip Hande the stolen property was recovered. Nothing is recovered at the instance of this accused.

12] There is statement of Sonu Panjabi, owner of Laxmi Lodge, Deccan Gymkhana, Pune. As per his version as well as from the register of visitors of lodge, accused

Sandip Hande had been to his lodge on 03/03/2021 along with other three persons and they left the lodge on same day at 08.30 p.m.. In the register the names of the persons who were accompanied with Sandip Hande are mentioned as Akash Kamble, Rushikesh Bodke and Avishkar Gogawade. There is no reference of name of this accused either in the statement or in the register of the lodge. The prosecution has come with the case that, other accused and present accused hatched conspiracy in a room of that Laxmi Lodge but, Sonu Punjabi was not called for the purpose of identification parade. So also identification parade of this accused was not conducted.

13] According to prosecution, this accused and co-accused Kishor Changhate were standing outside the bungalow to keep watch. It means that, this accused did not enter the bungalow where offence was committed. Therefore, there is no question that his face could have been seen by the informant and witness Kailas. There is absolutely no evidence to show that, he was standing outside the bungalow. There is reference of name of this accused in the memorandum panchanama of co-accused but that is not admissible in evidence.

14] There is no material on record to show the association of this accused with gang leader or other accused. He cannot be said to be associated with gang leader only because they are of same village."

4. The role of the present applicant and all other materials on record are on par with the accused No.6 who has been enlarged on bail. In this view of the matter, the present applicant can be enlarged on bail. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Kishore Kalyan Changhate in connection with C.R. No. 133 of 2021 registered with Chaturshrungi Police Station shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more sureties in the like amount.

(c) The applicant shall attend the Investigating Officer of Chaturshrungi police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall file proof of address of himself as well as of his two blood relatives along with their mobile numbers.

(f) The applicant shall attend the trial regularly.

5. The application is disposed of.

(M. S. KARNIK, J.)