



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

BAIL APPLICATION NO.665 OF 2023

NITESH YUGAL SINGH	..APPLICANT
VS.	
THE STATE OF MAHARASHTRA	..RESPONDENT

**WITH
INTERIM APPLICATION NO.2117 OF 2023
IN
BAIL APPLICATION NO.665 OF 2023**

VISHAL RAMESH MANDLIK	..APPLICANT
VS.	
THE STATE OF MAHARASHTRA	..RESPONDENT

Senior Advocate Ashok Mundargi a/w. Adv. Subir Sarkar,
Adv. Varun Thokal i/b. Adv. Advait Tamhankar for the
applicant.

Mr. P. H. Gaikwad, APP for the State.
Adv. Akshay Bankapur for intervener.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 4, 2023.

P.C. :

1. Heard learned Senior Advocate for the applicant,
learned APP for the State and learned counsel for the
intervener.

2. This is an application for bail in respect of the offence
punishable under Sections 302, 120-B, 201, 115, 109, 419,

420, 465, 467, 468, 471 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 3(1)(i)(ii), 3(2), 3(4) and 3(5) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOCA', for short) registered on 18/2/2021 vide C.R. No.37/2021 with Gangapur Police Station, Nashik.

3. Briefly it is the case of the prosecution that the applicant who is accused no.14 had purchased the land from sister of the deceased. According to the prosecution, the sister of the deceased is an imposter. The said land was purchased by the applicant along with one Aabasaheb Paraji Bhadange (accused no.7) who has been enlarged on bail. The active role of committing the murder is placed on the accused no.1 - Sachin Mandalik, who the prosecution alleges to be the gang-leader. The accused no.1- Sachin Mandalik has been enlarged on bail.

4. The accusations are that as the deceased was not handing over the possession of the land and as the applicant and the co-accused who purchased the land were not getting the possession, the applicant and the co-accused gave a contract to the accused no.1 to eliminate

the deceased.

5. Learned APP invited my attention to the affidavit-in-reply from ground Nos.(e) to (i) to submit that the complicity of the applicant in the present crime is very much evident.

6. Learned counsel for the intervener - son of the deceased, apart from opposing the application for bail submits that the order enlarging the accused no.1 on bail is under challenge in this Court. It is, therefore, prayed that the same be heard together. It is further informed by learned APP and learned counsel for the intervener that the applicant was absconding and had to be arrested from Jharkhand. Learned Senior Advocate submits that this is not the factual position. Learned counsel for the intervener submitted that there is a money transaction between the gang-leader and the present applicant and therefore applicant cannot claim parity with accused no.7.

7. In the facts and circumstances of the present case as the applicant does not have any criminal antecedents and on the ground of parity, the applicant can be enlarged on bail. The material relied upon by the prosecution is that there was money transfer by the applicant in the account of

accused no.1. Accused no.1 is enlarged on bail. So also, accused no.7 who is a joint purchaser of the land alongwith the present applicant is enlarged on bail.

8. As of now, the fact remains that the accused no.1 has been enlarged on bail, so also accused no.7. The applicant is in custody for a period of two years and six months with the possibility of the trial concluding any time soon appearing to be remote. The investigation is complete. The charge-sheet has been filed.

9. Since the witnesses are residing within the jurisdiction of the Gangapur police station where the offence is registered, to allay the apprehension of the prosecution and the intervener that the applicant may tamper with the witnesses, stringent conditions need to be imposed to ensure that the applicant stands trial. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Nitesh Yugal Singh in connection with C.R. No.37/2021 with Gangapur Police Station, Nashik, shall be released on bail on his furnishing P.R. Bond of Rs.50,000/-

with one or more local sureties in the like amount.

(c) The applicant shall attend the Investigating Officer of Gangapur police station, Nashik, twice a month i.e. on 1st and 3rd Monday of every month between 11.00 am and 1.00 pm.

(d) The applicant shall not enter the area of the Nashik Municipal Corporation limits till the trial is concluded.

(e) Further the applicant shall not leave the Nashik District without intimation to the investigating officer or without permission of the trial Court.

(f) The applicant shall surrender the passport to the investigating officer.

(g) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter the jurisdiction of Gangapur Police Station till the trial is concluded as all the witnesses and the intervener are residing in the same area.

(h) 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.

(i) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

10. The application is disposed of.

11. The interim application is also disposed of.

12. Liberty to the prosecution/intervener to make an appropriate application for cancellation of bail in case there is any breach of condition on part of the applicant.

(M. S. KARNIK, J.)