

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

CRIMINAL BAIL APPLICATION NO. 1340 OF 2022

Lokesh Parshuram @ Dattatraya Mane	...Applicant
Versus	
State Of Maharashtra	...Respondent

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Mr. Shekhar Ingawale for the Applicant.
Ms. P. N. Dabholkar, APP, for the Respondent-State.
Mr. Atul U. Jadhav – Dy.S.P. Baramati City Police Station present.

CORAM : G. A. SANAP, J.

DATE : 1st NOVEMBER, 2023.

P.C. :

1. The Applicant who is accused no.12 in C. R. No. 779 of 2018 registered with Baramati City Police Station, Baramati, District – Pune for the offences punishable under Sections 386, 387, 302, 120-B read with 34 of the Indian Penal Code, 1860 (for short “the IPC”) & Sections 3(1)(i) (ii), 3(2), 3(4) of the Maharashtra Control of Organized Crimes Act, 1999 (for short “the MCOCA”), has made this application for bail.

2. The learned Advocate for the accused submitted that there is no evidence to show that the accused was either present the spot or in any manner participated in the offence on the spot. The learned Advocate submitted that co-accused Kundan has made a confessional statement. In his confessional statement, he has admitted the commission of a crime by him as well as the co-accused. The learned Advocate pointed out that the co-accused Kundan has nowhere stated the name of the accused no.12 being a part of this crime. Learned Advocate submitted that juvenile offenders Sahil Bade, Vinayak Shitole and Rahul Chavan assaulted the deceased and committed his murder. The learned Advocate submitted that, when the main accused Dinesh Wayase had gone to the house of the deceased this accused accompanied him. The learned Advocate submitted that simply because of this, his role in the commission of a crime cannot be inferred. The learned Advocate further submitted that some of the accused, who have been named in his confessional statement made by co-accused Kundan with a specific role played by them have been granted bail. The learned Advocate further submitted that, some of the accused have been granted anticipatory bail by this Court. It is

pointed out that some of the accused who are similarly circumstanced with the accused no.12 have also been granted bail. The learned Advocate submitted that therefore, the ground of parity is available to the accused no.12. The learned Advocate submitted that considering the material compiled in the charge-sheet and the role attributed to the accused his further incarceration is not necessary. The learned Advocate submitted that the learned special Judge took into consideration his criminal antecedents and denied him bail. The learned Advocate submitted that the criminal antecedents and the evidence available against the accused if juxtaposed it would show that the criminal antecedents alone may not stand in his way. The learned Advocate submitted that considering the criminal antecedents, the Court may imposed suitable conditions.

3. Learned APP submitted that this accused was a part of conspiracy hatched to eliminate the deceased. The learned APP pointed out that, the adult conspirators in order to save themselves from the clutches of the law used the juvenile offenders for eliminating the deceased. The learned Advocate submitted that, there is evidence against this accused. It is submitted that, if he is released

on bail then he would pressurize the prosecution witnesses and tamper with the prosecution evidence.

4. I have gone through the record and proceedings. Except three accused the remaining accused have been granted bail. It is undisputed that the main accused involved in the commission of murder with deadly weapon are the juvenile offenders. Some of the accused similarly circumstanced with the Applicants have been granted bail by this Court.

5. It is further seen that some of the accused, who have been named in the confessional statement of co-accused Kundan, have been released on bail. It is seen on perusal of the orders of bail granted to those accused that, they were not involved in the actual assault on the deceased. The co-accused Kundan has made a confessional statement. It is an inculpatory statement. In his confessional statement, he has not stated the name of the accused no.12.

6. It is seen that in 164 Cr.P.C. statement of the informant, she has also not stated about the actual participation by accused no.12 in

the incident of the assault. Perusal of statement would show that, when the gang leader Dinesh Wayase had came to their house to extend the threat to deceased, the accused no.12 with other person had accompanied him. It is seen that, this is the only evidence against the accused. It is pertinent to note at this stage, that no recovery of article or weapon was made at the instance of the accused.

7. In my view, considering the available evidence on record and particularly the confessional statement of co-accused Kundan, the bail cannot be denied to the accused no.12 on the ground of parity. It is worthwhile to note that the co-accused Kundan who has confessed the crime has been released on bail.

8. It is seen on perusal of the bail orders of the remaining accused that they have also criminal antecedents. On the basis of the criminal antecedents the bail cannot be rejected, provided the accused in the given case is otherwise entitled to get the bail. In my view, therefore, in this case the criminal antecedents would not stand in the way of the accused no.12. Accordingly, I conclude that the accused deserves to be released on bail. The apprehension put forth by the

prosecution can be redressed and taken care of by imposing appropriate conditions. Hence, I pass following order.

ORDER

- i. Bail application stands allowed.
- ii. The applicant-Lokesh Parshuram @ Dattatraya Mane, be released on bail in C. R. No. 779 of 2018 registered with Baramati City Police Station, on furnishing a PR bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- iii. The applicant shall not tamper with the prosecution evidence and/or threaten or induce the first informant and any other prosecution witness/es.
- iv. The applicant shall report at Baramati Police Station on the first Saturday of every month between 11:00 a.m. and 1:00 p.m. to mark his presence.
- v. Bail application stands disposed off.

(G. A. SANAP, J.)