

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

CRIMINAL BAIL APPLICATION NO. 1862 OF 2022

Kiran @ Gotya Ramdas Mhaske

...Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Ms.Anima Mishra a/w Mr.S.T. Pandey, Mr.Arvind Singh, Ms.Ritu Singh and Mr.Anuj Singh a/w Mr.Nagesh Avhad and Ms.Kajal i/b SBG Law Advocates, for the Applicant.

Ms.Anamika Malhotra, APP for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 15th SEPTEMBER 2023

P.C:-

. By this Application, Applicant is seeking bail in Crime No.13 of 2019 registered with Indiranagar Police Station, Nashik, for the offences punishable under Sections 394, 396, 397, 120(B) of the Indian Penal Code ('IPC' for short), Section 135 of the Maharashtra Police Act, Section 4/25 of the Arms Act and Section 3(1), 3(2), and 3(4) of Maharashtra Control of Organised Crime Act ('MCOCA Act' for short).

Digitally
signed by
NILAM
SANTOSH
KAMBLE
Date:
2023.09.18
15:30:32
+0530

N.S. Kamble

page 1 of 5

2. It is prosecution's case that on 8th January 2019 between 9.45 pm to 10.00 pm, the husband of informant-Avinash was coming to his house after taking cash from his shop viz. Super Grahak Bazar. At that time, five unknown persons robbed him at parking of Ganadhiraj Apartment and assaulted him with deadly weapons. They also took away his bag containing cash of Rs.6,00,000/-, bunch of keys of the shop, ATM card, cheque book etc. After hearing the cries, the informant being wife of the victim reached the parking lot and found her husband lying in pool of blood. Thereafter, the victim was admitted in the hospital, where he died during treatment. Thereafter, report was lodged by the first informant.

3. During investigation, it was disclosed that, Co-accused and applicant have committed the crime.

4. It is contention of the learned counsel for the Applicant that, It is alleged that, at the time of incident applicant was present outside the building and thereafter, he ran away from the incident spot. There is recovery of Activa motorcycle and debit card of deceased at the instance of the Applicant, but as per charge-sheet the recovery of debit card of deceased is shown at

the instance of the Applicant No.3. No witness has stated that, the Applicant was present at the time of the incident. There was no involvement of the Applicant in the said crime. Applicant is behind bar for more than 4 and ½ years. Hence, requested to allow the Application.

5. It is contention of the learned APP that, the Applicant was member of an organized crime syndicate. When incident was happened, he was standing outside of the building to keep watch. Motorcycle is recovered at his instance. There is CCTV footage of the said incident. There is confessional statement of co-accused which shows role of the Applicant. The debit card of the deceased is recovered at the instance of the Applicant and as per confessional statement of co-accused amount of Rs.50,000/- has come to part of the Applicant. There is *prima facie* case against the Applicant. Hence, requested to reject the Application.

6. I have heard both learned counsel. Perused FIR and charge-sheet.

7. The allegations against the Applicant are that, when incident happened he was standing outside the building and thereafter he ran away. At the instance of the Applicant debit card of the deceased and motercucle has been recovered. From the charge-sheet it appears that, police have recovered debit card of deceasd at the instance of the accused No.3 Vilas Mirajkar. Record doesn't show that, the deceased had two debit cards. There was only one debit card so either it can be recovered at the instance of the Applicant or Accused No.3-Vilas Mirajkar. As per allegations Applicant was not present at the time of the incident he was standing outside the building. The co-accused Chima Pawar in his confessional statement stated that, amount of Rs.50,000/- was given to the Applicant, but there is no recovery of the said amount at the instance of the Applicant. Two offences were registered against the Applicant out of which in one offence he has been acquitted. The Applicant is behind bar more than four years. Investigation is completed and charge-sheet has been filed.

8. Considering the above facts, further detention of the Applicant is not required.

9. In view of above, I pass following order.

ORDER

(i) The Applicant be released on bail in Crime No.13 of 2019 registered with Indiranagar Police Station, Nashik on furnishing PR bond of Rs.25,000/- with one or two sureties in the like amount.

(ii) After his release from jail the Applicant shall attend the Indiranagar Police Station, Nashik once in a month i.e. on every 1st Monday of the month between 11.00 a.m. to 3.00 p.m. till framing of charge.

(iii) The Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

(iv) Application is allowed in the aforesaid terms.

(SHIVKUMAR DIGE, J.)