

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

CRIMINAL BAIL APPLICATION NO. 1537 OF 2020

Nitin Dashrath Dangat	...Applicant
Versus	
The State Of Maharashtra	...Respondent

**ALONG WITH
INTERIM APPLICATION NO.349 OF 2021
IN
CRIMINAL BAIL APPLICATION NO. 1537 OF 2020**

Atit Deven Shah	...Applicant
-----------------	--------------

IN THE MATTER BETWEEN

Nitin Dashrath Dangat	...Applicant
Versus	
The State of Maharashtra	...Respondent

....

Mr. Nitin Deshpande i/b Mr. Swapnil M., Advocate for the Applicant in Criminal Bail Application.

Mr. Niranjan Mundargi i/b Mr. Gaurav Thole, Advocate for the applicant in Interim Application.

Mr. N. B. Patil, APP for the Respondent – State.

....

CORAM	:	PRAKASH D. NAIK, J.
RESERVED ON	:	17th OCTOBER, 2022.
PRONOUNCED ON	:	3rd JANUARY, 2023.

PER COURT:

1. The applicant is arrested on 22nd March, 2018 in C.R. No.10 of 2018 registered with Deccan Police Station, Pune for the offences punishable under Sections 302, 307, 120-B and 201 of the

Indian Penal Code, 1860 and Section 3(25) and 3(27) of the Arms Act provisions of Section 3(1)(i), 3(2), 3(3) and 3(4) of the MCOC Act were invoked.

2. The case of prosecution is that since 2012 the deceased was having dispute in respect of transactions of different lands with accused Nitin Dangat and applicant. In 2015 the deceased Deven Shah tried to settle the dispute through Rajesh @ Pandit Agarwal, Ravindra Chorge and associates. Rajesh @ Pandit Agarwal received Rs.75 lakh as part payment of his commitment from deceased Deven Shah. Subsequently the deceased had allegedly avoided to pay there maining part payment of Rs.30 lakh to Rajesh @ Pandit Agarwal and his associates. Taking advantage of the situation, applicant and Sameer Sadavarte with a view to obtain pecuniary gain, conspired to murder Deven Shah with the help of Sonu Rathod and his gang members. It is further alleged that Sonu Rathod provided country made pistol to Rahul Shivtare. Applicant transferred Rs.2 lakh in the account of Rajesh @ Pandit Agarwal. In turn, Rajesh Agarwal had provided pistol and rounds to Ravindra Chorge. Rahul Shivtare and Ravindra Chorge in furtherance of the conspiracy committedmurder of Deven Shah by using country made pistol provided byaccused Sonu Rathod and Rajesh Agarwal. Subsequently theshooters Ravindra Chorge and Rahul Shivtare

were kept in lodge at Ujjain. Ravindra Chorge was arrested. He was provided shelter by Abhimanyu Tiwari. Subsequently Rahul Shivtare was arrested. The weapons used in commission of crime were seized at the instance of Ravindra Chorge while memorandum panchanama from the office of co-accused Surendra Pal. Subsequently approval was sought for invoking provisions of MCOC Act, which was granted. The investigation proceeded. The applicant and other accused were arrested. On completion of investigation charge sheet was filed.

3. The applicant preferred an application for bail before the Special Court under the MCOC Act, the said application was rejected vide order dated 28th December, 2018. The applicant had preferred another application for bail before the Special Court under the MCOC Act which was rejected by order dated 18th February, 2020.

4. Learned Advocate for the applicant submitted that the applicant has been falsely implicated in the crime. The applicant has no connection with the murder of Deven Shah. The deceased was murdered for different reason which has no connection with the transactions between the deceased and the applicant. The confession of the accused Ravindra Chorge recorded under Section 18 of the MCOCA Act makes it clear that, the deceased was killed

on account of non payment of commission at the instance of another accused. The assailants were not acting at the instance of the applicant. The transaction between the deceased Deven Shah and the Applicant was settled. The applicant had no motive to kill the deceased. The assailant Ravindra Chorge and other co-accused were inducted by the deceased to settle the dispute with the applicant. Thus it cannot be inferred that, the applicants had utilized the assailants in killing the deceased. Merely on the basis of call records no adverse inference could be drawn against the applicant. The statement of witnesses though refers to the dispute between applicant and the deceased, there is no evidence on record that the applicant had any reason to kill the deceased. The statement of first informant and Vijay Hazare recorded during the course of investigation does not attribute the role to applicant in murder of Deven Shah. The complainant did not suspect the involvement of the applicant in the crime. The applicant has no connection with the crime indicate. There are no criminal antecedent against him. The prosecution had not shown any connection between the applicant and Gang leader Sonu Rathod. Provisions of MCOC cannot be applied to applicant. Shankar Navale was discharged from the case. Surendra Pal was granted bail by this Court vide order dated 17th September, 2019.

Statements of Kishor Aware, Vitthal Nimbalkar, Prakash Vighne, Vijay Hazare does not involve the applicant in any manner. Further detention of the applicant is not necessary.

5. The learned APP and learned Advocate for the first informant opposed the prayer for bail. The prosecution has filed an affidavit opposing bail. It is submitted that, the bail application preferred by Sameer Rajnikant Sadavarte has been rejected by this Court vide order dated 24th February, 2020. The role attributed to the said accused was lesser than the applicant. There are strong circumstances showing involvement of the applicant in the crime. Although the confessional statement of Ravindra Chorge does not attribute the role to the applicant, the evidence collected during the investigation supports the involvement of the applicant in the offence. Deceased Deven Shah was the builder. Co-accused Sameer Sadavarte was introduced to deceased by applicant. There was transaction with the deceased. The memorandum of understanding was executed between the deceased and the applicant. The deceased and his partners invested Rs.14.5 Crores in the land at Paud, Darivali and Dhairi in 2008. Another transaction was executed in 2012 between deceased and Sameer Sadavarte with the help of applicant. The applicant was supposed to pay Rs.300,00,000/- and co-accused was to pay Rs.2,25,00,000/-

respectively to the deceased towards advance commission accepted by them. The outstanding commission was not returned to the deceased by the applicant and the co-accused. Ravindra Chorge and Rajesh @ Pandit Agarwal used to visit office of deceased Deven Shah. Deceased Deven Shah had invested Rs.5,00,00,000/- for purchase of land in village Paud and Rs.9,50,00,000/- at village Dhayari. Sameer Sadavarte had received access amount of Rs.2,00,00,000/-. The applicant was paid an advance of Rs.3,00,00,000/- deal was not materialised and the amount was to be refunded by applicant. The applicant issued a security cheque of Rs.3,00,00,000/- in favour of deceased. Investigation revealed that, the applicant transferred Rs.2,00,00,000/- by RTGS in favour of co-accused Rajendra @ Pandit Agarwal who than arranged the pistol, rounds and gave it to accused No.1 and thereafter, accused No.1 Ravindra Chorge and Accused No.2 Rahul shivtare murdered Deven Shah. Investigation revealed that on the date of incident there was telephonic conversation between Sameer Sadavarte and Deven Shah. On the date of incident there were calls between Ravindra Chorge and Rajesh Agarwal, Ravindra Chorge and Rahul Shivtare, Ravindra Chorge and Applicant. There was telephonic conversation from 1st April, 2017 to 12th January, 2018 between Ravindra Chorge, Rajesh Agarwal, Nitin Dangat (applicant), Rahul

Shivtare, Deven Shah and Sameer Sadavarte. There were calls between Sameer Sadavarte and Deven Shah. The nexus between applicant, Sameer Sadavarte and other accused is established. The gang leader is involved in four cases. Assuming that the applicant is not involved in any other case, this is a serious offence. The commission which was received by the applicant was ultimately not returned to the deceased. Although Ravindra Chorge and others were inducted by Deven Shah, the fact remains that commission of Ravindra Chorge and other accused was not paid by Deven Shah and that the deceased was also asserting that, the advance commission received by the applicant was not returned to him.

6. Learned APP had relied upon chart depicting the telephonic contact between the accused persons. It is submitted that between 1st April, 2017 to 12th January, 2018 there was telephonic conversation between Ravindra Chorge and applicant *vice versa* there was telephonic conversation between the applicant and Pandit Agarwal. There was calls between Pandit Agarwal and Ravindra Chorge and *vice versa*. There was conversation between the applicant and Pandit Agarwal and *vice versa*. here was conversation between the applicant and Rahul Shivtare. There was conversation between the applicant and Sameer Sadavarte. There was conversation between the Ravindra Chorge and deceased and

vice versa. On 13th January, 2018 there was conversation between Ravindra Chorge and Pandit Agarwal and *vice versa* there were calls between Ravindra Chorge and Rahul Shivtare and *vice versa* there was call between Ravindra Chorge and applicant and there was conversation between Sameer Sadavarte and Deven Shah.

7. The first information report was registered by Atit Deven Shah on 14th January, 2019. It was alleged that two unknown persons came below the building and they fired at complainant and his father. As a result of firing, Deven Shah was declared dead. In his supplementary statement dated 21st June, 2018 the first informant had referred the name of Ravindra Chorge and one of the assailant. He also referred to the dispute between Deven Shah, applicant and Sameer Sadavarte. He stated that on account of fear he had not disclosed the name of Ravindra Chorge in the FIR. He also stated that Rajesh Agarwal had visited the office of Deven Shah. There was meeting to resolve the dispute between applicant and Deven Shah. He also stated that amount of Rs.3,00,00,000/- was to be received from the applicant. The applicant and Sameer Sadavarte were not completing the deal of land his father had told him that the applicant had handed over the cheque of Rs.3,00,00,000/- issued on Axis Bank dated 16th December, 2015 by way of security. Statement of Vishwnath Tapkir refers to

transaction with applicant and co-accused Sadavarte. He also referred to involvement of Ravindra Chorge in the supplementary statement dated 22nd March, 2018 he stated that applicant had give cheque of Rs.3,00,00,000/- to Deven Shah. The cheque was not deposited by Mr. Deven Shah. The transaction was not completed by the applicant and Sameer Sadavarte. Ravendra Chorge used to visit of the office of deceased Deven Shah. Statement of Vijay Hazare was recorded on 16th January, 2018 he had stated that Ravikdra Chorge was brought by Deven Shah to settle dispute with applicant. His supplementary statement was recorded on 30th June, 2018. He had referred to the meeting held between the applicant, Deven Shah and others to settled the dispute and that the dispute was resolved and applicant had assured that the title of the land would be cleared. He also referred to involvement of Raj @ Pandit Agarwal. He stated that Deven Shah had informed them that, the applicant had received Rs.11,00,00,000/- from him towards the land transaction and is not completing the transaction. Deven Shah had instructed Rajendra Agarwal and others to obtain money from the applicant and that he would give commission. Statement of Kishor Aware was recorded on 16th January, 2018. Statement of Vitthal Nimbalkar was recorded on 18th January, 2018. Statement of Prakash Vighne was recorded on and 18th January, 2018 and 22nd

June, 2018. They have referred to transactions between the applicant and the deceased. They have also referred to the meeting held for resolving the dispute and part commission given to some of the persons for resolving the dispute. The witness have also stated that Ravindra Chorge was visiting office of Deven Shah for demanding commission. The confessional statement of Ravindra Chorge was recorded. He has stated that, the commission was not paid by deceased Deven Shah. He has also referred to the fact that Deven Shah was also recovered money from applicant. He has referred to involvement of Rajesh @ Pandit Agarwal since the deceased had not paid the commission for settlement of dispute. He used to meet Deven Shah at the instance of Pandit Agarwal. He also stated that Rajesh Agarwal told him that Deven Shah is not receiving his calls. It is alleged that, the amount owed by the applicant was not paid to Deven Shah. The case of the prosecution is that the Ravindra Chorge was acting on the instructions of Rajesh Agarwal. The applicant had transferred Rs.2,00,000/- by RTGS infavour of Rajesh @ Pandit Agarwal. The said accused had arranged pistol and round which was give to Ravindra Chorge. The case of prosecution is all the accused subsequently joined together in killing Deven Shah. The prosecution has collected the CDR which indicate that there were calls between the applicant and

Rajesh @ Pandit Agarwal during period from 1st April, 2017 and 12th January, 2018 there were calls between applicant and Ravindra Chorge. On 13th January, 2018 there was conversation between Ravindra Chorge and Applicant. Ravindra Chorge and Pandit Agarwal. Pandit Agarwal and Rajendra Agarwal and Ravindra Chorge and Rahul Shivtare. Rahul Shivtare and Ravindra Chorge all this are strong circumstances showed the involvement of the applicant in the crime. The application of the co-accused Sameer Sadavarte has been rejected by this Court vide order dated 24th February, 2020. Section 21(4) of MCOC Act restricts grant of bail. Considering this circumstances no case is made out for grant of bail.

ORDER

. Bail application No.1537 of 2020 stands rejected and disposed off.

(PRAKASH D. NAIK, J.)