



Urmila Ingale

13-ba-2432-23.doc

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

BAIL APPLICATION NO. 2432 OF 2023

NILESH SUNIL KUMBHAR

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Aniket Vagal a/w Mr. Kunal Pednekar, Mr. Divesh Mehani
and Ms. Savvy Kolhekar, for the Applicant.
Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 27, 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 302, 120B, 109, 115 of the Indian Penal Code, under sections 3(25)(1-B)(a), 5 (27), 7(25) (1-AA), 8(2), (25) (1-B)(C), 9(1)(A)(i)(25), (1-B)(D) of the Arms Act and section 37(1)(C)/135 of the Maharashtra Police Act registered on 06/12/2021 vide C.R. No. 788 of 2021 with Bharti Vidyapith police station, District-Pune.
3. The deceased is Samir. The date of the incident is 06/12/2021. There are in all 6 accused. The applicant is

accused no.3. 2 co-accused have been enlarged on bail. It is the allegation of the prosecution that there was some dispute which co-accused Mehboob had with deceased Samir in respect of selling and purchasing of the lands. The co-accused Mehboob therefore conspired with the applicant and other accused to kill Samir. A pistol and cartridge was purchased from Bandu Tave. Co-accused Mehboob has taken the test of the pistol at Taljai Phata by firing 3 rounds of pistol. The accused kept a watch on the movements of Samir. The applicant was riding a motorcycle on which the co-accused Mehboob was a pillion rider. The other co-accused Sufiyan also followed Samir on another motorcycle. The deceased was shot at by the co-accused Sufiyan who took the pistol from co-accused Mehboob. The applicant is not the actual assailant. The motorcycle belonging to the applicant alleged to be used at the time of commission of offence has been recovered. The accusations against the applicant is that he helped the co-accused and was a part of the conspiracy.

4. Learned APP opposed the application. Learned APP submitted that there is an extra judicial confession in the

form of the statement of the witness Anand Surve. In the said statement, the witness stated that the applicant informed him that he will reach within short time at the mobile shop. The witness stated that the applicant appeared to be terrified. The applicant stated that Mehboob with the help of Sufiyan killed Samir and that applicant's mobile had remained with the co-accused Mehboob.

5. The applicant was arrested on 06/12/2021. No criminal antecedents are reported against the applicant. No one has identified the applicant. In the facts and circumstances of the present case, considering the role of the applicant and that the applicant is now in custody for more than 22 months, with the possibility of trial commencing and concluding trial any time soon appearing to be remote, the applicant can be enlarged on bail. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Nilesh Sunil Kumbhar in connection with C.R. No.788 of 2021 registered with Bharati Vidyapeeth police station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more local sureties in the

like amount.

(c) The applicant shall attend the investigating officer of the concerned police station once in a fortnight on every first and third Sunday 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 furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of.

(M. S. KARNIK, J.)