

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

**BAIL APPLICATION NO.2246 OF 2022
WITH
INTERIM APPLICATION NO.3705 OF 2022
IN
BAIL APPLICATION NO.2246 OF 2022**

Raju Ghurahu Vishwakarma ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Niranjan Mundargi i/b. Mr. Vinayak Patil for the Applicant.

Mr. Chandan Jaiswal with Mr. Laxmikant Shukla i/b. Mr. Sachin Shukla
for the Intervenor.

Mr. S.V. Gavand, APP for the Respondent -State.

Mr. Sudhir Korgaonkar, PSI, Kasturba Marg Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

ORDER PRONOUNCED ON : 10th AUGUST, 2023.

ORAL ORDER :-

1. The Applicant, who is facing trial in Sessions Case No.128 of 2022 pending on the file of learned Additional Sessions Judge, Dindoshi, Borivali Division, Mumbai, has filed this application under Section 439 of the Cr.P.C. for enlargement on bail. The said case arises from Crime No.1050 of 2021 registered with Kasturba Marg Police Station, for the offences punishable under Sections 120-B, 307, 324 and 201, r/w 34 of the IPC.

2. The aforesaid crime is registered pursuant to the First Information Report lodged by Deepak Khambe, the Executive Engineer of Mira Bhynder Corporation. The facts narrated in the FIR prima facie reveal that on 29/09/2021 at about 5.40 p.m. the First Informant was returning to his residence at Borivali. He was sitting on the rear seat of the official vehicle. At about 6.10 p.m. in front of Sanjay Gandhi National Park, when the car slowed down to take U turn, two persons on a motorcycle fired two rounds of gunshots at the First Informant from a close range. The bullet shattered the glass pane of the car and the First Informant sustained injuries. It is alleged that the said riders followed the car and at the next U turn once again fired gunshots and fled away from the place of the incident. On the basis of the aforesaid FIR the crime was registered against two unknown persons for attempting to cause the death of the First Informant.

3. In the course of the investigation the Applicant and the co-accused came to be arrested. The statements of the witnesses were recorded and upon conclusion of investigation charge-sheet came to be filed. The bail application filed by the Applicant has been dismissed by the learned Sessions Judge mainly on the ground that the material on

record prima facie shows that the Applicant was involved in commission of the crime. The learned Judge has observed that the offence is of serious nature and there is every possibility of the Applicant tampering with the evidence, if released on bail. Being aggrieved by the said order the Applicant has filed the application under consideration.

4. Mr. Niranjan Mundargi, learned counsel for the Applicant submits that the food supply contract given to Jivan Jyot Samajik Sanstha, Bhynder, of which the Applicant is a Trustee was renewed even prior to the incident and hence there was no motive to enter into any criminal conspiracy to cause the death of the First Informant. He submits that the mere fact that the Applicant had engaged the accused No.1 as an Accountant and the accused No.2 as Manager, vis-a-vis Call Detail Records are not sufficient to prove the involvement of the Applicant in the said crime. He submits that there is no direct or circumstantial evidence to prove the conspiracy and the mere suspicion would not be sufficient to detain the Applicant. He submits that the co-accused have been released on bail and hence, the Applicant is entitled for bail on the ground of parity. He has relied upon the decisions of the Apex Court in *State of UP through Central Bureau of Investigation vs.*

Dr. Sanjay Singh, 1994 Supp (2) Supreme Court Cases 707, and Balkrishna Tularam Angre vs. State of Maharashtra, 2018 ALL MR (Cri) 898 SC.

5. Per contra, learned APP as well as Mr. Jaiswal, learned counsel for the Intervenor submitted that the material on record prima facie indicates that the Applicant had a grudge against the First Informant for terminating the contract for providing food to Covid-19 patients. It is submitted that the material on record further proves that the co-accused-Amit Sinha, the contract killer had visited the house of the Applicant after the incident, on 30/09/2021 between 12.36 to 1.30 a.m. The Applicant was also seen with the co-accused Amit Sinha at Dadar Station on the next date. There is also material on record to prove that money was paid to the contract killers. The Applicant had made multiple calls to the co-accused, who had travelled to UP. It is stated that two deadly attempts were made in broad daylight to cause death of the First Informant and the seriousness of the offence does not justify grant of bail.

6. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

7. The facts narrated in the FIR prima facie indicate on 29/09/2021, while the First Informant was returning to his residence by his official car, two unknown persons fired two rounds of gunshots in an attempt to cause his death. The statements of Omprakash Lalsab Singh, Nitin Mukhani, Kunal Ashish Harsora, Chetan Savle, Vishwas Kedar and Karan Jadhav prima facie reveal that the Applicant was one of the trustees of a Welfare Organization by name -Jivan Jyoti Samajik Sanstha. It is stated that in the wake of outbreak of Covid-19 pandemic, the Corporation had awarded tender in favour of the said organization for providing food to covid patients in quarantine centers. There were complaints about the quality of food supplied to covid patients hence the First Informant by letter dated 17/08/2020 cancelled the said tender. The Applicant was irked by this decision and was constantly vowing to take revenge, though he had thereafter managed to get a fresh tender. The statements of these witnesses also prima facie reveal that the co-accused Amit Sinha is a sharp shooter. He was released from jail and would meet the Applicant very often. As per the instructions of the Applicant he was allowed to enter the quarantine center without making any entry.

8. The material on record also prima facie reveals that two other junior engineers were miffed with the First Informant for denying their promotion. They too had joined hands with the Applicant to eliminate the First Informant. In this regard, the statement of Durgawati reveals that at the end of July-2021 she had accompanied the Applicant to the office of co-accused, engineer -Mohite. Subsequently, the co-accused engineer-Mohite went to his car alongwith the Applicant herein. The Applicant returned with an envelope containing Rs.10,00,000/- and handed over the same to this witness. Subsequently, he took back the envelope and after about 4 to 5 days gave her Rs.4,00,000/- stating that he would take it from her as and when required. She deposited the said amount in her account and on 30/09/2021, at the instance of the Applicant herein she withdrew an amount of Rs.2,00,000/- and went to his office. On reaching the office she learnt about the attempt on life of the First Informant. While she was talking to Mr. Daksh, the Applicant came near the office. He appeared to be under tremendous mental pressure. He took the amount of Rs.2,00,000/- brought by her. In the same evening, as per the instructions of the Applicant she booked a railway ticket for Dadar and waited near Bhynder station. The Applicant came at about 8.00 p.m. He showed her the photograph of the co-accused Amit Sinh and

enquired whether he had come to the station. She claims that they went to Dadar Railway station and that the Applicant met the co-accused Amit Sinha and handed over the money to him. She claims that the Applicant told him to leave the place.

9. The material on record prima facie reveals that the Applicant had visited the house of Amit Sinha immediately after the incident. The statement of witness-Durgavati as well as the CCTV footage, prima shows the presence of the Applicant and Amit Sinha at Dadar Railway Station on the next date. Furthermore, there is also material on record to show that he had paid money to Amit Sinha, who is stated to be a sharp shooter. The Call records also indicate that the Applicant was in constant touch with all the co-accused. The decisions relied upon by the Applicant are not relevant, as at the stage of bail, the Court is not required to enter into detailed analysis of the evidence on record and look for proof beyond reasonable doubt. This would be a matter of trial. Principles governing the grant of bail are well settled. At this stage all that the Court is required to examine whether there is prima facie reasonable ground to believe that the accused had committed the offence or the nature and gravity of the accusation, severity of the punishment, etc. In the instant case, the material on

record prima facie proves the complicity of this Applicant in entering into criminal conspiracy within the meaning of Section 120-A of the Indian Penal Code to commit murder of the First Informant.

10. The statement of Rajja Ansari prima facie proves that the co-accused -Ajay Singh, a close associate of the Applicant, had earlier engaged him and Ajay Sinha to cause death of the First Informant. The previous attempt failed as this witness got nervous and in the process the motorcycle dashed against an autorikshaw. Having failed in the first attempt, they once again attempted to cause death of the First Informant, in the broad daylight while he was returning home by his official car. In such circumstances, release of the Applicant could affect safety of the First Informant. In ***Sudha Singh Vs. State of Uttar Pradesh and Anr., (2021) 4 SCC 781*** the Apex Court has observed that there is no doubt that liberty is important, even that of a person charged with crime but it is important for the Courts to recognise the potential threat to the life and liberty of victims/witnesses, if such accused is released on bail.

11. Considering the nature of the offence, the material in support thereof and the potential threat to the life of the First

Informant, in my considered view this is not a fit case to exercise discretion under Section 439 of the Cr.P.C. Hence, the application is dismissed.

12. Interim application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)