



Diksha Rane

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

BAIL APPLICATION NO.3266/2023

SADANAND RAMDAS TUPKAR

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Priyal Sarda for the applicant.

Ms. Rutuja Ambekar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 12, 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, 120-B, 201 of the Indian Penal Code (hereafter 'IPC' for short) registered on 9/8/2022 vide C.R. No.370/2022 with Talegaon Dabhade Police Station, Pune.

3. For ease of reference, the relevant portion of the order dated 2/8/2023 in respect of granting bail to the co-accused Pandurang @ Sagar Bansi Harke is reproduced :-

"1. This is an application under Section 439 of Code of

Criminal Procedure, 1973, seeking relief in connection with C.R. No.370 of 2022 registered at Talegaon Dabhade Police Station for offences punishable under Sections 302, 120B, 201, of the Indian Penal Code, 1860.

2. According to prosecution, the accused No.1 had illicit relationship with the deceased. She was forcing accused No.1 to perform marriage. The accused No.1, is already married and having children. For keeping his reputation, he was not ready to perform the marriage. Therefore, he engaged services of accused No.2 (present applicant) for payment of Rs.7,00,000/- (seven lakh). Accused No.2, (applicant) assigned job of killing deceased to accused No.3 and 4. Accordingly, accused No. 3 and 4 committed murder of deceased.

3. The learned advocate for the applicant pointed out that the accused No.1 has been released on bail by the Sessions Judge by order dated 27th January 2023, in Criminal Bail Application No.765 of 2022.

4. Role attributed to accused No. 1 is of hatching conspiracy who engaged present applicant to assign job of contract killing to accused No. 3 and 4. On perusal of the order dated 27th January 2023, it appears that the Sessions Judge has granted bail to accused No.1, on merits. The Sessions Judge has assigned reasons for release of accused No.1. The Sessions Judge has referred CDR class between the accused. The materials on record against the applicant are statement of witnesses, CDR and electronic evidence. However, considering release of accused No.1, who had engaged the applicant to commit murder of the deceased, the applicant deserves to be release on the doctrine of parity."

4. It is, thus, the case of the prosecution that the accused no.1 had given contract to the accused no.2 to murder the victim. The applicant is the accused no.4. The accused no.2 had engaged the services of the accused nos. 3 and 4 to execute the act. The case is based on the circumstantial evidence. There is a recovery of motorcycle from the present applicant. The material against the present

applicant is the statement of the co-accused.

5. Learned APP while opposing the application submitted that the co-accused named the present applicant. There is a recovery of the motorcycle at the instance of the present applicant and hence the applicant should not be enlarged on bail.

6. The applicant was arrested on 25/8/2022 and is in custody for more than one year and three months with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk.

7. Considering that the accused nos.1 and 2 have been enlarged on bail and having regard to the materials against the present applicant as the case rests on circumstantial evidence, in the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Sadanand Ramdas Tupkar be released on bail in connection with C.R. No.370 of 2022 registered at Talegaon Dabhade Police Station, on furnishing P.R. Bond in the sum of Rs.25,000/- along with one or two sureties in the like amount.

(c) The applicant shall attend each and every date before the Trial Court unless specifically exempted by the Court. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(d) The applicant shall mark his presence before the investigating officer on first Monday of each month between 11.00 a.m. to 02.00 p.m. till the completion of the trial.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court.

(f) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case;

(g) The applicant shall surrender his passport, if any, to the investigating officer.

8. The application is disposed of.

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(M. S. KARNIK, J.)