

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

BAIL APPLICATION NO. 3676 OF 2022

Ajinkya Ramdas Patil ...Applicant
vs.
The State of Maharashtra ...Respondent

**ALONGWITH
INTERIM APPLICATION NO. 1596 OF 2023
IN
BAIL APPLICATION NO. 3676 OF 2022**

Uddesh Maruti Patil ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. A. U. Nikam i/by Mr. Amit Icham - Advocate for the Applicant in
BA 3676 of 2022
Mr. Madan Gupta a/w Mr. Pratik Deore a/w Mr. Parth Phadtare i/by
Mr. Pratap Nimbalkar – Advocate for Applicant in IA 1596 of 2023
Mr. H. J. Dedhia - APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 25th APRIL, 2023

P. C. :-

INTERIM APPLICATION NO. 1596 OF 2023

1. Not on board. Taken on board.
2. The first informant wants to participate in this proceedings. Heard respective counsels. Application is allowed.

3. Interim Application is disposed of.

BAIL APPLICATION NO. 3676 OF 2022

4. I have heard learned Advocate Shri Nikam for the Applicant and learned Advocate Shri Madan Gupta for the first informant and learned APP Shri Dedhia for the Respondent-State.

5. One Mangesh Maruti Patil went missing on 12/04/2022, from his house at village Waklan, Taluka and District Thane. Intimation was given to Shil-Daighar Police Station. He was not traced out alive but it was revealed that he was eliminated by his closed relative, who is accused no. 3- Akshay Lahu Patil. The present Applicant-Ajinkya Patil and the said Akshay Patil hatched the conspiracy and services of accused-Pravin Ramdas Jagtap and Rahul Virbhan Suryawanshi were hired. The dispute in between the deceased Mangesh Patil and the accused Akshay Patil was on account of opening a beer shop. Accused Akshay was about to start a beer shop at village Waklan. He was in need of the NOC from the Gram Panchayat. So also he was in need of the consent of Maruti Patil, who is father of the deceased-Mangesh Patil. However they were not ready to give consent. On that account there was dispute and quarrel in between the accused Akshay on one hand and deceased Mangesh

and his father on the other hand. So to eliminate Mangesh, arrested accused have hatched conspiracy with the present Applicant Ajinkya and as said above hired services of accused nos. 1 and 2. Accused-Pravin was paid Rs. 50,000/-.

6. During the inquiry of missing complaint, Police have put the mobile of the deceased on surveillance and they have noticed that one objectionable number belonging to one Aadesh Harish Shegdane. Through him, the Police realized that the arrested accused-Pravin Ramdas Jagtap is concerned and he was called. During inquiry he confessed about the crime. He confessed that the accused-Akshay and his associates have hired him for Rs. 50,000/-.

7. On that basis the PSI Shri Jadhav attached to Shil-Daighar Police Station lodged the F.I.R. under Sections 364, 302, 201, 120-B of the Indian Penal Code. At that time dead body was not found.

8. In all four persons were arrested. Admittedly, the dispute was not in between the deceased Mangesh and the present Applicant. At the instance of the arrested accused-Pravin, the dead body was found buried on road going to Murbad, District Thane. It was recovered as per his memorandum statement.

9. So far as this Applicant is concerned, it is not the case of the prosecution that he had given any blow or played any part while killing him or burying his dead body. The role alleged against him is hatching conspiracy alongwith accused-Akshay.

10. From the charge-sheet, learned Advocate Shri Nikam invited my attention to the various statement thereby referring this Applicant. According to him, even those statements are considered, it no where conclusively suggest about involvement of this Applicant in hatching the conspiracy or playing a part otherwise also.

11. Whereas according to the learned APP, the statement suggest the presence of this Applicant on various dates and various places and according to him he was very much aware about the conspiracy plan. According to him there are also Call detail report.

12. Whereas according to the learned Advocate for the first informant- arrested accused-Pravin has given a statement under Section 27 of the Indian Evidence Act thereby showing the place wherein the dead body was buried. He has referred about role of this Applicant. Whereas according to the learned Advocate Shri Nikam what is admissible is information disclosed and not what is stated by the witness about hatching the conspiracy.

13. There are statements of the witnesses including one Nandkumar Chaudhari (at page no. 149) and Bhanudas Mhaskar (at page no. 150). The accused-Akshay and present Applicant-Ajinkya had gone to meet the witness Nandkumar and at that time they have said that they are going to eliminate deceased-Mangesh as he is not co-operating. Whereas witness Bhanudas has said about meeting at Ekvira Dhaba for the purpose of lunch. The deceased Mangesh, accused Applicant-Ajinkya they have attended. The accused Akshay has introduced Mangesh Patil to his friend Pravin (arrested accused) and when Mangesh Patil had gone for nature call, accused-Akshay has parted away certain amount to the arrested accused-Pravin. Thereafter also witness says that all of them have discussed with each other. Whereas in a statement recorded under Section 164 of the Criminal Procedure Code of the same witness the discussion taken place after parting away the money does not find place as per the contention of Mr. Nikam.

14. There is a statement of the father of the deceased by name Maruti, at page no. 148. He has also stated about the dispute on account of opening of the beer shop with accused Akshay and the intervention by Nandu Mama, who is witness Nandkumar

Chaudhari. Furthermore, there are statements of one Suraj Sunil Patil, at page no. 167 and one Suraj Laxman Patil, at page no. 160.

15. The said Suraj Sunil Patil has stated that on 17/04/2022, when Akshay met him, he was under the pressure and therein he has confessed that he was responsible for kidnapping and killing of the deceased-Mangesh. The contention is that in the said extra judicial confession there is no name of the present Applicant. Whereas witness Suraj Laxman Patil has said that they sat for consuming a liquor on 12/04/2022 at 6.30 p.m.. The deceased Mangesh, even accused-Akshay and Ajinkya were also there. At that time, the deceased informed that his friend Pravin was about to come to meet them.

16. Furthermore, there are two statements, one is on page no. 168 of Somanth Chaudhari and one is on page no. 170 of Keshav Chaudhari. They have disclosed that the present Applicant Ajinkya has expressed desire to support the accused-Akshay.

17. As said above, the role alleged against this Applicant is that of privy to conspiracy. It is true that case is based on circumstantial evidence. Court has to see whether link is established or not. However it can be done at the time of the trial. At this stage,

we have to see whether materials pointed out shows the involvement of the accused thereby warranting his further detention.

18. On this lines, when I have perused the materials, I feel that the Applicant has made out the case for grant of bail. Admittedly, he was not having any personal dispute with the deceased. The arrested accused-Pravin during inquiry made by the Police initially prior to registration of offence has also not taken the name of the present Applicant. Even though the statements as referred above, it suggests the presence of this Applicant at certain places, either at Dhaba or on the ground, they do suggest that this Applicant was knowing about the dipute. The accused Akshay was knowing him so also deceased-Mangesh. However those materials at this stage I am not inclined to consider to warrant further detention of this applicant behind bar. It is not the case that he has paid the amount to the accused no. 1 and 2, so I feel that case is made out for grant of bail. Hence the Order:-

ORDER

- (i) Applicant-Ajinkya Ramdas Patil arrested in connection with C. R. No. 113 of 2022 registered with Shil-Daighar Police Station of the offence

punishable under Sections 364, 302, 201, 120-B of the Indian Penal Code, be released on bail on furnishing personal bond and Surety bond in the sum of Rs. 50,000/-

- (ii) Applicant shall not threaten the prosecution witnesses.
- (iii) Applicant shall give attendance to Shil-Daighar Police Station on first Monday from 10.00 am to 12.00 noon for one year.
- (iv) The Applicant shall regularly attend the proceedings before the trial Court.
- (v) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail.

19. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with the law, uninfluenced by the observations made in this order.

20. Application is disposed of in the aforesaid terms.

21. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]