

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 3571 OF 2022**

Omkar Bhalchandra Bhingare ...Applicant
Versus
The State Of Maharashtra ...Respondent

**WITH
CRIMINAL INTERIM APPLICATION NO. 527 OF 2023
IN
CRIMINAL BAIL APPLICATION NO. 3571 OF 2022**

Girish Babasaheb Karale ...Applicant

In the matter between

Omkar Bhalchandra Bhingare ...Applicant
Versus
The State Of Maharashtra & Anr. ...Respondents

Mr. Satyavrat Joshi a/w Mr. Ashish Vernekar i/b Samay Pawar for the Applicant.

Mr. Amit A. Palkar, APP, for the Respondent No.1-State.

Ms. Anandmaya Dhorde i/b Mr. Nitin Gaware Patil for the Intervenor in IA/527/2023.

CORAM : G. A. SANAP, J.

DATE : 1st NOVEMBER, 2023.

P.C. :

1. The Applicant/Accused No.3 has made this application for bail in C. R. No. 1576 of 2021 registered with Chakan Police Station, Pune for the offence punishable under Sections 302, 120-B read with

34 of the Indian Penal Code, 1860 (for short “the IPC”) and Sections 3, 25 of the Arms Act, 1959 and under Sections 3, 7, of the Criminal Law Amendment Act.

2. Learned Advocate for the Accused No.3 submitted that two Accused who are similarly circumstanced have been released on bail namely Sushant and Sopan. The learned Advocate submitted that, as per prosecution case these accused participated in the crime pursuant to the conspiracy. The learned Advocate submitted that in the CCTV footage, wherein, the incident was recorded, the Accused No. 7 and Accused No. 3 are not seen. The learned Advocate submitted that in the CCTV footage only Accused Nos. 1, 2 and 4 were seen assaulting the deceased. The learned Advocate submitted that no weapon or any incriminating article was recovered at the instance of the accused. The learned Advocate submitted that the Scorpio Car recovered at the instance of the accused was not used in the crime. The said car was not seen in the CCTV footage. The learned Advocate submitted that, considering the peripheral role attributed to this Accused, on the ground of parity with Accused, Sopan and Accused Sushant, he is entitled for bail. The learned Advocate submitted that the accused is ready to abide by the conditions that may be imposed by his Court

considering his criminal antecedents.

3. The learned APP submitted that Accused No.3 was a part of conspiracy which ultimately led to murder. The learned Advocate submitted that there are witnesses to the incident and, therefore, the possibility of extending threat to those witnesses cannot be ruled out, if the accused is enlarged on bail. The learned APP submitted that apart from the serious crime committed in this case, Accused No.3 has criminal antecedents. The learned APP further submitted that the possibility of tampering with the prosecution evidence at the behest of Accused No.3 cannot be ruled out.

4. The learned Advocate for the Intervenor has adopted the submissions advanced by the learned APP.

5. It is a case of prosecution that on 23rd December, 2021, the deceased Nagesh met them and requested them to join him for dinner. When they declined to accompany him he went away. On the very same day at about 9:00 p.m. in front Milind Beer Shopee of Sangeeta Thakur some unknown persons fired shots at the deceased. The message of incident was conveyed by Sangeeta Thakur to the informant. On the spot, they found that the deceased was lying in pool of blood. He was rushed to Jai Hind Hospital at Chakan, where

he was declared dead. The CCTV footage at the place of incident recorded the incident. The accused Yogesh Daundkar and three unknown persons were seen firing bullets at the deceased.

6. The perusal of the record would show that the Accused No.3 was not present on the spot. The identity of the persons seen in the CCTV footage has been established and they are Accused Nos. 1, 2 and 4. It is pertinent to mention that the use of Scorpio Car is not established on the basis of CCTV footage. There is no recovery of any weapon or article at the instance of the accused. The Scorpio Car was recovered at the instance of the accused however, the said recovery is not significant, in as much as, no incriminating article or blood was detected in the said car. It is seen that the role attributed to this Accused is similar to the one attributed to Accused Sushant and Accused Sopan who have been released on bail.

7. In my view, therefore, the ground of parity is very much available to this Accused. No material has been pointed out to deny bail on the ground of parity. It is pointed that the Accused No.3 before committing this crime was involved in two more crimes. It is submitted that due to his criminal antecedents, he is not entitled to get bail.

8. In my view, solely on the basis of his criminal antecedents, he cannot be denied the bail. One crime registered against the Accused is under Section 326 of the IPC another one is under the Arms Act. In my view, keeping in mind his criminal antecedents the appropriate conditions can be imposed. The apprehension put forth by the learned APP can be taken care of by imposing appropriate conditions. It is made clear that, the observations made in this order are only for the purpose of a deciding the bail application. Accordingly application is allowed.

ORDER

(I) The application is allowed.

(ii) The applicant- Omkar Bhalchandra Bhingare, be released in connection with C. R. No. 1576 of 2021 registered with Chakan Police Station, Pune shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more solvent sureties in the like amount.

(iii) 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.

(iv) 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.

(v) Applicant shall stay out of Pune district except for the purpose of attending this trial as well as other cases that too with the prior intimation to the Chakan jurisdictional Police Station where this crime is registered.

9. In view of the disposal of the bail application nothing survive in the interim application, accordingly it is disposed off.

(G. A. SANAP, J.)