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

BAIL APPLICATION NO.3432 OF 2022

Pralhad Mangaldas Tangdi ..Applicant
VS.
The State of Maharashtra ..Respondent

Mr. Vinod Kashid i/b Mr.Sumit Bhoite, for the Applicant.
Mr. S. V. Gavand, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 30, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP.
2. This is an application for bail in respect of C.R.No. 61 of 2017 dated 14/02/2017 registered with Narpoli Police Station for the offence punishable under sections 302, 143, 146, 147, 148, 149, 120-B of the Indian Penal Code, 1860, sections 3, 25, 26 of the Arms Act, sections 37(1), 135 of the Maharashtra Police Act, sections 3(1)(ii), 3(2), 3(4) of Maharashtra Control of Organised Crime Act, 1999.

3. The FIR was registered on 14/02/2017. The applicant was arrested on 25/06/2019 and is in custody for 3 years and 6 months. In all there are 22 accused. It is pertinent to note that accused no.4-Ganesh Gopinath Patil, accused no. 8- Rangnath Vishnu Mhatre, accused no. 17- Vikram Mohan Mhatre, accused no. 19- Sujit Madhukar Patil @ Taty, accused no. 22- Sushant Bhaskar Mhatre have been released on bail.

4. Learned counsel invited my attention to the order dated 19/09/2022 passed by the trial Court granting bail to the accused no.22- Sushant Bhaskar Mhatre. There is no overt act attributed to the applicant in the commission of the crime. The role assigned to the applicant is that he conspired with the other accused. So far as the applicant is concerned, the affidavit filed by Rajkumar Bhanudas Dongre- Assistant Commissioner of Police, paragraphs 16 to 19 read thus:

"16. I say that the record shows that during the course of investigation, memorandum statement of applicant/ accused was recorded and as per his statement, he has shown the place i.e. Sai Raj Enterprises office where the accused persons hatched the criminal conspiracy to kill the

deceased Manoj Mhatre. The applicant/ accused also had/shown the said tin shed where the accused conducted trial firing with double barrel fire arm.

17. I say that the record shows that during the course of investigation, on 14.02.2017, the present Applicant was present where the conspiracy hatched and two mobile were seized from him which were used in the said crime under section 27 of Indian Evidence Act vide Memorandum Panchanama dated 03.07.2019.

18. I say that the record shows that during the course of investigation, CDR of Mobile Phone of the applicant/accused mobile phone was obtained and from the said CDR, it revealed that prior to the commission of the offence, the applicant/ accused was in contact with the co-accused.

19. I say that the record shows that during the course of investigation, confessional statement under section 18 of MCOC Act of the co-accused Prashant Mhatre, Rangnath Mhatre, Kunal Mhatre, Rajani Mhatre, Kalpesh Mhatre, Sujit @ Bandya Mhatre, Mahesh Mhatre, Mayur Mhatre and Viddesh Patil were recorded in which 7 co-accused mentioned the role of Applicant/Accused and they have disclosed the said offence was committed by their organized crime syndicate for pecuniary benefit and to increase political influence in the area. They also gave the information about the fire arms, deadly weapons, vehicles which were used in commission of the said offence. The above said co-accused also disclosed that on 14.02.2017, the present applicant/ accused was very much present at the spot where conspiracy was hatched."

5. Considering that co-accused-Sushant Bhaskar Mhatre is having similar role as that of the applicant who

has already been released on bail, on the ground of parity, the applicant can be released on bail. My attention is invited by learned APP to paragraph 16 of the order dated 21/11/2022 of the trial Court while rejecting the bail application preferred by the present applicant. The same reads thus :

"16. The learned Special P.P. has submitted that although this Court has granted bail to some of the co-accused, but prosecution intends to challenge the said orders and the process of forwarding proposal to Law and Judiciary department is in progress. In view of this according to him parity cannot be made applicable."

6. In my opinion, as the other accused are released on bail and also as the applicant is in custody for more than 3 years and 6 months with no possibility of the trial commencing any time soon, the applicant deserves to be released on bail. In the event, any orders are passed in challenge to the bail granted to the other co-accused, liberty to apply as I am granting bail on the ground of parity as well. Hence, the following order.

ORDER

(I) The application is allowed.

(II) The applicant-Pralhad Mangaldas Tangdi be released on bail on furnishing P.R. and S.B. of Rs.1,00,000/- (Rupees One Lakh only) with one or more sureties of like amount in connection with Crime No. I-61/2017 registered with Narpoli Police Station.

(III) The applicant is permitted to furnish cash bail surety in the sum of Rs. 1,00,000/- for a period of 6 weeks in lieu of surety.

(IV) The applicant shall attend the Narpoli Police Station on every 15th day of month until the conclusion of trial.

(V) 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 such facts to the Court.

(VI) The applicant shall not enter in the premises, where the complainant, witnesses and wife or daughter of deceased are residing.

(VII) The applicant shall not leave India without the previous permission of the Court.

7. The application is disposed of.

(M. S. KARNIK, J.)