

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3853 OF 2022

Nilesh Chandrakant Kurlap

...Applicant

V/s.

The State of Maharashtra

... Respondent

Mr.Aniket Nikam i/b Mr.Nitesh J. Nohite, for the Applicant.
Ms.Anamika Malhotra, APP for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th OCTOBER 2023

P.C:-

. By this Application, Applicant is seeking bail in Crime No.59 of 2021 registered with Shirur Police Station, Pune Rural, for the offence punishable under Sections 307, 143, 147, 148, 149, 120(b), 341 of the Indian Penal Code ('IPC' for short), Section 3,4,25 and 27 of the Arms Act and under Section 3(1) (ii), 3(4) of the Maharashtra Control of Organised Crime Act ('MCOCA Act' for short).

2. It is prosecution's case that, Applicant and co-accused had tried to kill the first informant when he was going on motorcycle. It is alleged that, Applicant is gang leader and he had given Rs.5,000/- to the co-accused.

3. It is contention of the learned counsel for the Applicant that, Applicant was not present at the time of the incident. The FIR was lodged against the unknown person. It is alleged that, Applicant had conspired to eliminate the first informant. The co-accused who are named in the FIR i.e. Mukesh Kurlabh and Gopal Yadav have been released on bail. They have antecedents. The learned counsel further submitted that, Report under Section 169 of the Cr.P.C. is filed for co-accused namely Mahendra Yewale, Ganesh Kurlabh and Rahul Pawar.

4. The learned counsel further submitted that, allegations against the Applicant are that, he had given Rs.5,000/- to co-accused. But it is not mentioned in the charge-sheet for what purpose the said amount was given. Moreover, co-accused who allegedly assaulted the first informant have been released on

bail. Hence, Applicant is entitled for bail on principle of parity, the role assigned to the Applicant is on lesser footing in comparison to the co-accused who have been released on bail. Applicant is behind bar more than 2 and ½ years. Yet charge has not been framed. Hence, requested to allow the Application.

5. The learned APP submitted that, Applicant is gang leader. He has antecedents. He had directed the co-accused to eliminate the first informant and as per his say the incident happened. Applicant had given Rs.5,000/- to the co-accused. There is *prima facie* case against the Applicant. There are what's app chats between Subham Dalvi and applicant. The learned APP further submitted that, two confessional statements of co-accused points out the role of the Applicant. The confessional statement shows Rs.5,000/- was given by Applicant. Hence, requested to reject the Application.

6. I have heard both learned counsel. Perused FIR and charge-sheet.

7. Admittedly, the Applicant was not present at the incident spot. It is alleged that, Applicant was a part of

conspiracy to attempt to kill the first informant. The co-accused against whom allegations are there that, they have tried to kill the first informant have been released on bail. The Co-accused whose name mentioned in the FIR have been released on bail, though they have antecedents. It is alleged that, Applicant had provided Rs.5,000/-, but it is not mentioned for what purpose it was given. The alleged what's app chats between co-accused Shubham Dalvi and Applicant are after the incident and the co-accused Shubham Dalvi is released on bail. Applicant is behind bar more than 2 and ½ years. Those confessional statement doesn't show role of the Applicant.

8. In view of above, I pass following order.

ORDER

(i) The applicant-Nilesh Chandrakant Kurlap in Crime No.59 of 2021 registered with Shirur Police Station, Pune, be released on bail, on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties, in the like amount.

- (ii) The applicant shall undertake to remain present before the learned Special Judge, during the trial, unless exempted.
- (iii) The applicant shall not make any contact directly or indirectly or influence or threaten the prosecution witnesses and shall not otherwise tamper with the prosecution evidence/witnesses.
- (iv) In the event of breach of any of the conditions, the bail is liable to be cancelled.
- (v) The bail bonds to be furnished before the learned Special Judge.
- (vi) The Criminal Application is disposed of in the aforesaid terms.

(SHIVKUMAR DIGE, J.)