

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1340 OF 2024

Ashok @ Sonu Vitthal Gund

VERSUS

The State Of Maharashtra

...

Advocate for Applicant : Mr. Rahul R. Karpe
APP for Respondent/State : Mr. A.S. Shinde
Advocate for Complainant : Mr. S.R. Zambare

WITH

CRIMINAL APPLICATION NO. 3673 OF 2024
IN BA/1340/2024

...

CORAM : S.G. MEHARE, J.

DATED : SEPTEMBER 19, 2024

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the complainant.
2. The applicant seeks bail in Crime No.376 of 2023 registered with Ahmednagar Taluka Police Station, District Ahmednagar for the offences punishable under Sections 302, 384, 386, 387, 323, 504, 506, 507, 120-B, 75 r/w 34 of the Indian Penal Code and Sections 3(1)(i), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act ('MCOCA Act' for short).
3. The prosecution has a case in brief that the deceased was killed for ransom. The role attributed to the applicant is that he is the conspirator. He is the member of the gang run by the other co-

accused. He was also involved in identical crimes. The substantial material is collected against him.

4. Learned counsel for the applicant would submit that there is absolutely no evidence of conspiracy. The solitary call was made to one Ravi Lokhande. It's transcription does not show the demand of the ransom. On the contrary, he argued that co-accused Indrajeet was seriously beaten in front of their house. He would submit that recently, he has been acquitted from another crime. Since there was no substantial ground against him, he deserve bail.

5. Learned APP and learned counsel for the complainant strongly opposed the application. Counsel for the complainant has tried to point out that due to threat, the applicant has been acquitted from another crime. Similar attempt was made in this case also. The applicant has a terror in the locality. Therefore, there is every possibility of tampering with the prosecution witnesses. Indrajeet was the co-accused. The cousin brother of this applicant has made a statement against the applicant that he and other co-accused met at his home before the incident happened. The applicant used to threaten the witnesses. Hence, he has been acquitted. The applicant is a hardened criminal and the member of the gang. The offence is serious. The material collected against him is sufficient to prima facie establish that he was a conspirator.

6. In reply, learned counsel for the applicant would submit that the statement of the cousin brother of the applicant is falsified by the CDR report which shows that he was somewhere else and not at the place where his cousin brother stated.

7. Perused the papers. The solitary material against the applicant is the telephonic conversation of one witness Ravi Lokhande on 30.04.2023. Except this, other evidence is oral. Admittedly, the applicant was not physically present at the time of the alleged incident. One of the co-accused Indrajeet was also seriously beaten at the hands of the complainant side. Whether the crime at his instance registered against the complainant has any reason to disbelieve, is a matter of appreciation of the evidence and recently, he has been acquitted in another crime. This is the only crime pending against him. Having regard to the evidence against him, the Court is of the view that it would be unjustifiable to keep him behind bar. However, to guard the apprehension of prosecution, certain conditions may be imposed. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant, Ashok @ Sonu Vitthal Gund, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount in the above crime, on the conditions that ;

(4)

- (a) The applicant should not tamper with the prosecution witnesses.
- (b) The applicant should not enter Ahmednagar Taluka for one year except for attending the trial.
- (c) On the date of the trial, he should immediately leave the District and Sessions Court without spending time with anybody till the conditions are over.
- (iii) Criminal Application No.3673 of 2024 stands disposed of.

(S.G. MEHARE, J.)