

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 646 OF 2024

Dipak Dattatray Khirid	...	Applicant
versus		
The State of Maharashtra		Respondent

Mr. Shailesh D. Chavan a/w. Sagar Kawade a/w. Hrishikesh Avhad,
Advocates for the Applicant.

Smt. S.G. Talhar, APP for the State/Respondent.

API Rahul B. Namade, Dattwadi Police Station, Pune City, present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 25th APRIL, 2024.

P.C. :

1. By this application, applicant is seeking bail in C.R. No. 75 of 2019 registered with Dattawadi Police Station, Pune for offences punishable under Sections 302, 307, 324, 143, 147, 148, 149, 120-B and 201 of the Indian Penal Code, 1860 (for short "IPC") and under Sections 3(25), 4(25) of the Arms Act and under Sections 37(1)(3) r/w. Section 135 and under Section 142 of Maharashtra Police Act, 1951 and Sections 3(1)(i)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999 (for short "MCOC").

2. It is prosecution's case that, on 13th January, 2019 at about 6.00 p.m. complainant and his friends namely Nilesh Wadkar, Amol

Kadam, Ganesh Jadhav, Hrishikesh Chavan, Sujeet Badambe, were proceeding from Jay Bhavani Nagar via Yallamma Mandir to Kande Ali. On their way they came across Sunil Dokephode @ Chocolate Sunya, Navnath Valhekar, Yogesh Jambhale, Abhijeet Kadu, Avinash Devkule, Nitin Metkari, Sameer Natekat @ Kala Dadya, Akshay Ambawale, Shubham Rakesh Shimpi, Sohali Shaikh, Saurabh Adhav, Raj Dhav, Pappu Gaikwad, Atish Mali. On account of previous enmity/rivalry between the two groups and as the complainant's group opposed the accused's group from collecting extortion money in that area, on that count the accused persons by entering into pre-planned criminal conspiracy, by firing from gun and also by assaulting with the means of sickle and by fists and blows caused the death of Nilesh Wadkar and attempted to cause the murder of Amol Kadam, Ganesh Jadhav, Sujit Badambe and fled away thereafter complaint was lodged with Dattawadi Police Station.

3. It is contention of learned counsel for the Applicant that , name of the applicant was not mentioned in the First Information Report. In the statement of eye witness, the role attributed to the applicant is that he had beaten the deceased and first informant with fists and blows. Except these allegations, there are no other allegations against the Applicant. Learned counsel further submits that the Applicant had one criminal antecedent and he has been acquitted from the said offence. There is no recovery at the instance of the applicant. Investigation is completed and

charge-sheet has been filed. Learned counsel further submits that the applicant is behind bar more than 5 years and 3 months and yet charges have not been framed. This Court has released co-accused against whom same allegations are leveled. Hence, requested to allow the application on principle of parity.

4. It is contention of learned APP that the application was member of syndicate crime. There was rivalry between two gangs. And out of that rivalry deceased was murdered by the gang of applicant. Applicant was present at the time of incident, he participated in assault on deceased, it shows his involvement in crime. If applicant is released on bail, he may threaten the prosecution witnesses. Hence, requested to reject the application.

5. I have heard both learned counsel. Perused FIR and Charge-sheet.

6. Allegations against the Applicant are that, he beaten up the deceased and first informant with fist and blows. The statements of eye witnesses also show same allegations against the applicant. The death of deceased is caused due to hemorrhage and shock due to multiple chop injuries. There is no recovery at the instance of applicant. Applicant is behind bar for more than five years and three months. Investigation is completed and charge-sheet has been filed. This Court has released the co-accused Raj @ Rajesh Adhav against whom same allegations are

leveled.

7. Considering the above facts, his further detention is not required.

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

ORDER

(i) Applicant be released on bail in Crime No. 75 of 2019 registered with Dattawadi Police Station, Pune, on executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(ii) Applicant shall attend the concerned police station once in a month i.e. on first Saturday between 11.00 a.m. to 2.00 p.m. till framing of charge.

(iii) Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

(iv) The application is allowed in the aforesaid terms and is accordingly disposed of.

(SHIVKUMAR DIGE, J.)