

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1187 OF 2023**

Vaibhav A. Varade ...Applicant
Versus
State of Maharashtra ...Respondent

WITH

INTERIM APPLICATION NO. 3365 OF 2023

Vishal R. Mandlik ... Applicant
In the matter between
Vaibhav A. Varade ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Aniket Nikam alongwith Mr. Aashish Satpute i/b Mr. Amit Icham for the Applicant.

Ms M.M. Deshmukh, APP for the Respondent/State.

Mr. Akshay Bankapur for the Applicant/Intervener in IA/3365/23.

CORAM : N. R. BORKAR, J.
DATE : 20 JANUARY 2024.

PC:-

1. This is an application under Section 439 of Code of Criminal Procedure for bail.

2. The applicant came to be arrested in Crime No.37 of 2021 registered at Gangapur Police Station, Nashik for the offences punishable under Sections 302, 120-B, 201, 115, 109, 419, 420, 465, 467, 468 & 471 read with 34 of the Indian Penal Code (IPC), Sections 4 and 25 of the Arms Act and Sections 3(1)(i)(ii), 3(2), 3(4), 3(5) of the Maharashtra Control of Organized Crime Act (MCOC Act).

3. There was property dispute between the deceased and co-accused Sachin Mandlik. He had thus hatched the conspiracy to kill the deceased. It is alleged that pursuant to the said conspiracy, he hired the co-accused Bhagwan Changle and Ganesh Kale to kill the deceased. It is alleged that the present applicant was accomplice of co-accused Bhagwan Changle and Ganesh Kale, who killed the deceased.

4. I have heard the learned counsel for the applicant, the learned APP for the respondent – State and learned counsel for the complainant/intervenor.

5. The learned counsel for the applicant submits that there is no evidence to show that the applicant was hired to kill the deceased. It is submitted that the statement of witness Saurabh Sathbhai, which the prosecution is relying upon to connect the applicant with the alleged crime itself shows that co-accused Bhagwan Changle and Ganesh Kale were hired to kill the deceased. It is submitted that the applicant may therefore, be released on bail.

6. On the other hand the learned APP and learned counsel for the complainant submit that the involvement of the applicant in the crime in question is apparent from the statement of witness Saurabh Sathbhai. It is submitted that there is evidence in the form of phone call records to show that the applicant was in contact of the co-accused Ganesh Kale. It

is submitted that considering the nature of offence the applicant may not be released on bail.

7. According to the prosecution, the co-accused Bhagwan Changle and Ganesh Kale were hired to kill the deceased and the present applicant was their accomplice. However, it is not the case of the prosecution that the applicant was present at the time of alleged incident. I have perused the statement of Saurabh Sathbhai. *Prima facie*, it is difficult to draw an inference from the said statement that present applicant was hired to kill the deceased. There are no other criminal antecedents. Considering overall facts and circumstances, I am inclined to release the applicant on bail. In the result, the following order is passed.

ORDER

- A] Bail Application is allowed.
- B] The applicant be released on bail in C.R. No.37 of 2021 registered at Gangapur Police Station, Nashik for the offences punishable under Sections 302, 120-B, 201, 115, 109, 419, 420, 465, 467, 468 & 471 read with 34 of the IPC, Section 4 and 25 of the Arms Act and Sections 3(1)(i)(ii), 3(2), 3(4), 3(5) of the MCOC Act on furnishing P.R Bond in the sum of Rs.50,000/- (Rupees Fifty Thousand) with one or two sureties in the like amount.
- C] The applicant shall not enter into the limits of district Nashik till conclusion of trial, except to attend the dates before the trial court.

D] The applicant shall attend the concerned police station within whose jurisdiction he is going to reside after his release once in a month, i.e., on first Saturday between 11.00 a.m. to 2.00 p.m. till conclusion of the trial.

E] The applicant shall not tamper with the prosecution evidence.

F] Liberty to the prosecution/complainant to file an application for cancellation of bail in case the applicant commits breach of any of the above conditions.

8. Pending Interim Application is disposed of.

(N.R. BORKAR, J.)