



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

CRIMINAL APPEAL NO.880 OF 2023

SHRINIVAS TIMAYA MUNGAR

..APPELLANT

VS.

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Mr. Rohan Hogle i/b Mr. Wasim Shaikh, for the Appellant.

Ms. S.D. Shinde, APP for the State.

Mr.Amit Arvind Katarnaware a/w Mr. Aditya Arvind Katarnaware, for Respondent No.2.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 05, 2024

P.C. :

1. Heard learned counsel for the appellant, learned APP for the State and learned counsel for the respondent no.2.
2. This is an appeal for bail in respect of the offence punishable under sections 302, 452, 324, 323, 120B, 143, 147, 149, 109 of the Indian Penal Code, 1860, under section 37(1), 135 of the Bombay Police Act and under sections 3(2), (5-A) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered on 13/05/2021 vide C.R. No. 123 of 2021 with Shivaji Nagar police station, Ambarnath East.
3. The appellant-Shrinivas Timaya Mungar is one of the 9

accused. The date of the incident is 13/05/2021. The FIR was registered on 13/05/2021. It is the allegation of the informant who is wife of the deceased that the accused killed her husband in broad day light. Some of the accused had a long standing dispute with the deceased over a complaint he had made in respect of toddy shop run by one of the accused. The accused were also upset with the fact that the deceased had eloped with the informant and married her. The informant was a part of the area where the accused were residing whom the accused considered to be one of them. The day prior to the incident, the deceased had assaulted the son of the present appellant. The appellant is the father of the accused-Jagdish Mungar who is one of the main assailant. The appellant is alleged to be the conspirator. The name of the appellant as a conspirator came up for the first time in the statement of the witness – Preeti Nirmal Jacob who is the friend of the informant. The statement of Preeti Jacob was recorded on 25/05/2021 almost 12 days after the incident. In the statement it is her version that the appellant said that he will not spare the deceased and that he will kill him. Apart from the fact that

the statement was recorded 12 days after the incident, it is material to note that the role alleged of the appellant is that of the conspirator.

4. The appeal is vehemently opposed by learned APP as well as learned counsel for the respondent no.2. It is submitted that the deceased was killed in a very brutal manner in broad day light. It is submitted that it is at the instigation of the present appellant that the offence was committed by the other accused. It is further submitted that the appellant had a motive to commit the crime. It is not the case of the prosecution that the appellant was present at the spot and played a role in the commission of the offence. The appellant is alleged to be a conspirator.

5. In the facts and circumstances of the present case, considering the nature of the materials against the appellant, also considering that the appellant is in a pre-trial custody from 14/05/2021 for a period of more than 2 years and 8 months with no possibility of trial concluding any time soon, I am inclined to enlarge the appellant on bail. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the

appellant. The trial is likely to take a long time to conclude. Further custody will only be by way of a pre-trial punishment in the facts and circumstances of the case. The appellant will face the consequences post-trial if found guilty. However, considering that the appellant is residing in the same area, having regard to the nature of allegations and his relationship with the main accused, I am inclined to put stringent conditions while enlarging the appellant on bail in the interest of the informant and other witnesses. Hence, the following order :-

ORDER

- (a) The appeal is allowed.
- (b) The appellant- Shrinivas Timaya Mungar in connection with C.R. No. 123 of 2021 registered with Shivaji Nagar police station, Ambarnath East shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The appellant shall attend the investigating officer of Shivaji Nagar police station, Ambarnath East once in three months on every first Monday of the month between 11.00 a.m. and 1.00 p.m. commencing from March 2024.
- (d) The appellant 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 the facts to Court or any Police Officer. The appellant shall not tamper with evidence.

(e) On being released on bail, the appellant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(f) Except for attending the trial and for the purpose of reporting to the investigating officer, the appellant shall not enter Thane District after being released on bail, till the trial concludes.

(g) The appellant shall attend the trial regularly. The appellant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The appeal is disposed of.

(M. S. KARNIK, J.)