

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

BAIL APPLICATION NO.2487 OF 2023

Datta /Shridhar Vasantryao Patil ...Applicant
Versus
The State of Maharashtra ...Respondent

.....

Mr. Karan Singh Rajput with Mr. Satyapal Thosar, Ms Gulnar Khan, Mr. Imran Khan i/b. Mr. Dharmesh Joshi for the Applicant.
Mr. Ajay Patil, APP for the Respondent -State.

CORAM :SMT. ANUJA PRABHUDESSAI, J.

DATED: 5th JANUARY, 2024.

P.C.:-

1. This is the second bail application filed by the aforesaid Applicant, who is facing trial in MCOC Special Case No.108 of 2021 pending before MCOC Court, Pune, arising from C.R. No.368 of 2020 registered with Bhosari Police Station, Pune, for the offences punishable under Sections 302, 324, 352, 143, 144, 146, 147, 148, 149, 120 B, 109 and 212 of the IPC, Section 4(25) of the Arms Act and Sections 37(1) r/w 135 and 142 of the Maharashtra Police Act and Sections 3(i)(ii), 3(2) (3), 3(4) of the Maharashtra Control of Organized Crime Act, 1999.

2. Heard Mr. Rajput, learned counsel for the Applicant and Mr.

MEGHA
SHREEDHAR
PARAB

Digitally signed by
MEGHA
SHREEDHAR PARAB
Date: 2024.01.15
11:02:45 +0530

Ajay Patil, learned APP for the Respondent -State. Perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Dinesh Choudhary, friend of the deceased Mayur Madke. The facts narrated in the FIR prima facie indicate that on 08/08/2020 at about 10.55 p.m. while the first informant, the deceased and one Dashrath Devkate were sitting in the gallery of Shrikant Gavhane, the co-accused-Mangesh More and others approached them stating that they wanted to talk to the deceased -Mayur. The FIR reveals that while they were talking to the deceased, Mangesh More inflicted blows of sickle(koyta) on the head of Mayur and others inflicted blows of sickle on various parts of his body. Some of the assailants assaulted Dashrath when he tried to intervene and further they ran towards the Complainant with sickles in their hands. However, the Complainant jumped from the gallery and managed to escape.

4. Said Mayur was taken to the hospital. He was declared dead. The post mortem report reveals that the deceased had sustained following external and internal injuries:-

External injuries:-

- (i) Chop wound over right temporal area of size 8cm x 1 cm, bone deep, underlying bone is fractured, situated 2 cm from eyebrow extending posteriorly, obliquely placed.
- (ii) Chop wound over right temporal area of size 3 cm x 1 cm, bone deep, situated 1 cm above injury No.01, obliquely placed.
- (iii) Incised wound over right mastoid area of size 6 cm x 2cm, bone deep, obliquely placed, underlying bone fractured.
- (iv) Chop wound over midline of skull extending posteriorly of size 11 cm x 3 cm, cavity deep, underlying brain exposed to exterior, vertically placed.
- (v) Incised wound over occipital area on right side of size 6 cm x 3 cm bone deep, underlying brain exposed to exterior.
- (vi) Incised wound over nape of neck of size 2 cm x 1cm muscle tissue deep, obliquely placed situated 3 cm from midline.
- (vii) Incised wound over nape of neck on right side situated 2 cm above and lateral from injury no.6 of size 3 cm x 1cm muscle tissue deep.
- (viii) Incised wound over nape of neck situated 1 cm below injury No.7 of size 4 cm x 1 cm, muscle tissue deep.
- (ix) Incised wound over right shoulder on tip of size 4 cm x 1 cm, muscle tissue deep, obliquely placed.
- (x) Incised wound over right shoulder of size 5 cm x 1 cm, muscle tissue deep, obliquely placed, situated

1m lateral to injury No.09.

- (xi) Incised wound over lateral aspect of right shoulder of size 6 cm x 1 cm, muscle tissue deep, obliquely placed.

Internal injuries:-

- (i) Underscalp Hematoma present all over scalp, dark red.
- (ii) Fracture of skull bones.
- (iii) Meninges-congested, torn at places. Brain-congested, subdural hematoma present over parietal area containing about 80 gms of blood clots, subarachnoid hemorrhage present all over brain surface as a thin red blood film, brain lacerated corresponding to injury no.4 and 5 in column No.17

The medical records reveal that the deceased was murdered in a most brutal manner.

5. Order dated 29/11/2022 indicates that the previous bail application was withdrawn after arguing the matter at length and when this Court had expressed its disinclination to grant bail. Learned counsel for the Applicant states that the second bail application is filed mainly on the ground of parity. He submits that the co-accused -Om Mathpati has been released on bail by this Court on 30/03/2023. He has placed on record copy of order dated 30/03/2023 passed by the

co-ordinate Bench of this Court (Coram: N.R. Borkar, J.) in Bail Application No.2310 of 2022. Paragraphs 5 and 6 of the said order read thus:-

“5. I have perused the F.I.R., which is lodged by the eye-witness. However, he had not named the present applicant either as a assailant or that the applicant was part of alleged unlawful assembly. I have also perused the statements of witnesses recorded under Section 164 of Cr.PC.. They have not attributed any overt-act to the present applicant in the alleged crime.

6. It appears that during the relevant period, the applicant was the student of final year of Engineering. There are no other criminal antecedents. Considering the overall facts and circumstances, I am inclined to release the applicant on bail. ...”

6. The records prima facie reveal that the assailant Mangesh More is the gang leader, who runs organised crime syndicate. About 9 cases are registered against him at Dighi and Bhosari Police Station and

the same are pending before different courts. The statement of Nikhil Ramchandra Dabale, recorded under Section 18 of the Maharashtra Control of Organised Crime Act, 1999 prima facie reveals that the Applicant herein used to give monetary aid and look after bail matters and other affairs of the said organised crime syndicate. The statement of Nikhil also prima facie reveals that the Applicant herein had met co-accused-Mangesh More and had informed him that Mayur Madke had to be eliminated. The Applicant had taken the responsibility of providing monetary assistance and that he had given an amount of Rs.10,000/- to Mangesh More to procure weapons. The statement of this witness thus further revealed that after the assault they had phoned the Applicant -Datta Patil and informed him that the deceased had been eliminated and the Applicant had told them not to waste time and to return to Latur. He has further stated that later he had met the Applicant and that the Applicant had given Rs.5,000/- and told him to leave the place.

7. The statement of this witness prima facie shows that the Applicant is actively involved in the affairs of the organised crime syndicate headed by the gang leader-Mangesh More and that he had told the gang leader Mangesh More. The role attributed to the

Applicant is not similar to that of the role of the co-accused-Om Mathpati. The Applicant was not similarly placed. Hence, the principle of parity is not applicable.

8. The gravity of the offence, the role attributed to the Applicant as well as his criminal antecedents, do not justify grant of bail. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)