

V/s.

The State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO. 1124 OF 2024

V/s.

The State of Maharashtra & Anr. ... Respondents

Ms. Sana Raees Khan, for the applicant.

Ms. Geeta Mulekar, APP, for the respondent / State.

Ms. Priyal Sarda with Shubham Sane, Seema Dighe and Mr. Rajesh R,
for the intervenor.

Mr. Vasant Bendarkar, PI, Pimpri Police Station, Present.

CORAM : ANIL S. KILOR, J.

DATE : 5TH AUGUST, 2024.

PC:

1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.1058 of 2022, registered with Pimpri Police Station, District: Pune, for the

offences punishable under Sections 302, 143, 147, 148, 149, 120B, 114, 115, 212, 201 of the Indian Penal Code, 1860 (for short, 'IPC'), Sections 3, 4, 25, 27 of the Arms Act, Section 37(1) r/w 135 of the Maharashtra Police Act, Sections 3 and 7 of Criminal Law Amendment Act and section 3(1) (i) (ii) and 3(4) of MCOC Act.

3. The learned counsel for the applicant submits that though in the FIR the applicant was named, however, in the supplementary statement the name of the applicant was not mentioned. However, the name which was additionally mentioned i.e. the co-accused, John Paul he has been granted bail.

4. It is submitted that there is no recovery against the applicant and no specific role is attributed to the applicant. It is further submitted that the motive was against the main accused i.e. accused no. 1, who is the gang leader as his brother was allegedly killed by the deceased. It is submitted that the applicant has been falsely implicated in the present matter because he was the witness in a previous case registered against the deceased.

5. It is further submitted that the co-accused Rekha who instigated all the accused persons to kill the deceased has also been granted bail by the trial Court. It is further argued that considering the period of incarceration and the fact that the charge-sheet has been filed, the applicant may be released on bail.

6. The learned APP on the other hand, strongly opposed the

application and points out that there are seven eye-witnesses to the incident. The learned counsel for the applicant, however disputed the same and submitted that three out of seven eye-witnesses have not named the applicant.

7. The learned APP further points that as far as conspiracy is concerned, there are two eye-witnesses who have named the applicant and stated the fact about the conspiracy. It is further argued that as it is the case of unlawful assembly, even though a specific role is not attributed, the presence at the scene of offence and involvement in the alleged offence, of the applicant is sufficient. Accordingly, the learned APP prays for rejection of the application.

8. The learned counsel, Mr. Sarda, for the intervenor reiterates the submission of the learned APP and prays for dismissal of the present application.

9. The present offence is a very serious offence, wherein the deceased was brutally killed. There are eye-witnesses who have named the applicant and since it is a case of unlawful assembly, even though a specific role is not attributed against the applicant, it is not material for grant of bail. Furthermore, there are witnesses to prima facie connect the applicant as regards the conspiracy to eliminate the deceased. Moreover, there are two antecedents against the applicant other than the present one.

10. The learned counsel for the applicant submits that in one of

those cases the applicant was acquitted. Be that as it may, the fact remains that there are eye-witnesses, hence, there is no reasonable ground to believe that the applicant is not guilty in the alleged offence. Moreover, considering the antecedents, it cannot be said that if the applicant is released on bail he will not commit the similar offence.

11. In that view of the matter, I am not inclined to grant bail. Accordingly, it is rejected.

(ANIL S. KILOR, J)