

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 702 OF 2023

Prashant Popatrao More	...	Applicant.
V/s.		
State of Maharashtra	...	Respondent.

WITH

INTERIM APPLICATION NO.832 OF 2024

IN

CRIMINAL BAIL APPLICATION NO. 702 OF 2023

Rohini Raviraj Taware (Lakhe)	...	Applicant.
V/s.		
State of Maharashtra	...	Respondent.

Shri Aabad H. Ponda, Sr.Adv. a/b Shri Sumit Krishna Kumar Tiwari i/b
Shri Ashish Raghuvanshi, Advocates for Applicant
Ms Veera Shinde, APP for the State/Respondent.
Ms Aruna Shantaram Pai, Advocate for Intervener in IA No.832/2024.

CORAM : ANIL S. KILOR, J.

DATED : 11TH JULY, 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.350 of 2021, registered with Police Station, Baramati, District: Pune Rural for the offences punishable under Sections 307, 120-B, 504, 506 read with Section 34 of the Indian Penal Code, Sections 3(4), 25, 27 of the Indian Arms Act and Sections 3(1)(ii) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (“MCOC Act” for short).
3. The allegations against the applicant in this offence is that the applicant and the co-accused hatched the conspiracy and accordingly Akash, son of the applicant who is juvenile, fired at the husband of the informant by pistol, whereby the husband of the informant sustained injury.
4. Shri Ponda, learned Senior Advocate argued that the applicant was arrested on 1st June 2021 on the basis of suspicion, whereas there was nothing with the prosecution on the date of arrest against the applicant to implicate him in the alleged offence. It is submitted that the applicant was not present on the spot of the incidence and he was in Mumbai.
5. It is submitted that the applicant was arrested first and then the whole case was built-up against the applicant, which sufficiently shows that the applicant has been falsely implicated in the alleged offence out of the rivalry.

6. It is further argued that the confessional statement of the co-accused cannot be taken into consideration as it was retracted by the co-accused. He, therefore, submits that in absence of any incriminating material against the applicant he may be released on bail.
7. On the other hand, Ms Pai, learned counsel for the intervener strongly opposed the application. It is argued that the offence is very serious and the provisions of the MCOC Act have been invoked in the present matter. It is submitted that the applicant is the leader of the syndicate and there was a motive behind the alleged incident. It is submitted that the confessional statement under Section 18 of the MCOC Act was given by the co-accused, which supports the case of the prosecution as regards conspiracy and involvement of the applicant in the alleged offence. She further points out that there are about 16 antecedents against the applicant.
8. It is further argued that in the compliant itself specific allegation of conspiracy was made by the informant and therefore, it cannot be said that on the date of arrest of the applicant, there was nothing on the record to implicate the applicant in the alleged offence. Accordingly, she strongly opposed the application and prays for rejection of the same.
9. The learned APP reiterates the submissions of the learned counsel for the intervener and prays for rejection of the present application.

10. Having considered the charge-sheet and the material collected by the Investigating Officer during investigation, *prima-facie*, it can be said that there is sufficient incriminating material available on record against the applicant to show his involvement in the alleged offence.
11. In the present matter, the co-accused Rahul @ Ribel Krushanant Yadav gave his confessional statement on 23rd June 2021, wherein he speaks about the motive and conspiracy hatched by the applicant. It has come in the confessional statement that son of the applicant fired a round from the pistol as per the plan. He further states that it was a part of the plan that a minor should fire on the husband of the informant from the pistol, so that he could be released immediately, being juvenile.
12. No doubt, there was retraction as regard the confessional statement, but if the date and the period lapsed in between is considered, it is evident that the retraction is after more than 1½ year.
13. Immediately after recording of the confessional statement there is no complaint of any torture or pressure by police for giving such a statement. Thus, at this stage, it is not safe to completely ignore the confessional statement considering the seriousness of the offence and the fact that the applicant is the leader of the syndicate and involved in about 16 similar cases in the past.

14. As far as motive is concerned, the complaint narrates numerous incidences, which is sufficient to show *prima-facie* motive behind the alleged incidence.
15. Thus, considering the material available on record, there is no reasonable ground to believe that the applicant is not guilty of the alleged offence. Furthermore, considering the antecedents to the discredit of the applicant, it cannot be said that if the applicant is released on bail there is no possibility that he will commit the similar offence.
16. In the circumstances, I am of the opinion that this is not a fit case for grant of bail to the applicant. Accordingly, the Criminal Bail Application is **rejected**.

In view of above, the Criminal Interim Application No. 832 of 2024 is also **disposed of**.

(ANIL S. KILOR, J)