

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.339 OF 2024

Rohit Chandrakant Gangane

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Vikas B. Shivarkar, Advocate for Applicant.
- Mr. Hitendra J. Dedhia, APP for Respondent.
- PSI – Sangram S. Patil, Vartak Nagar Police Station (8108337772).

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 04, 2025

P.C.:

1. Heard Mr. Shivarkar, learned Advocate for Applicant and Mr. Dedhia, learned APP for Respondent.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') seeking Bail in connection with C.R.No.32 of 2023 registered with Vartak Nagar Police Station for offences punishable under 306, 387, 506(2), 427, 323 read with Section 34 of the Indian Penal Code, 1860 (for short '**IPC**') and Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crimes Act, 1999 (for short '**MCOC Act**').

3. He is one of the co-accused person arraigned as Accused No.4 in the crime. According to the prosecution case, there are 6 Accused persons out of whom Accused No.1 – Dhiraj Balu Virkar is

nomenclature as gang-leader. *Prima facie*, it is seen that Accused No.1 has five antecedents against his name. In so far the present Applicant is concerned, there are no antecedents against him save and except the complaint which is registered in the present case.

4. Case of prosecution is that in the evening of 29.01.2023, Accused No.1 alongwith some of his accomplices entered a barber shop managed by the deceased – victim called Manish Sharma alongwith his nephew and he threatened him to give him Rs.3,000/- per month as extortion fee every month, if the victim wanted to continue his business from the said shop. First Informant in the present case is the younger brother of deceased – victim.

5. According to prosecution and the suicide note left by the victim, Accused No.1 threatened the victim with a pair of scissors which he picked up from the said shop. *Prima facie*, when the statement is seen which is appended at page No.19, the version stated in the First Information Report (for short ‘**FIR**’) is by the younger brother of deceased – victim which was narrated to him by the victim. However what is stated in the FIR *prima facie* does not corroborate with the contents of the suicide note qua the incident in question which is appended at page No.306 of the Application.

6. There are *prima facie* discrepancy in the facts which are narrated. According to prosecution, Accused No.1 threatened the

victim and came out of his shop and entered a neighbouring shop called '22 Paper Mart' and also threatened the Proprietor of the said shop and when he came out from there he was arrested. According to prosecution his other accomplices were present but ran away from the spot. After narrating what transpired which is *prima facie* not in consonance with what is stated in the suicide note, the victim committed suicide on the following day. He left a suicide note. In the note, he begins by stating that Accused No.1 should be held responsible due to the threat and extortion demand made by him from the victim. However, if the said suicide note is read in its entirety it is seen that there were several other issues with which the victim was *prima facie* traumatised especially in respect of certain amounts which were borrowed in the name of his nephew who was managing the business of the barber shop stated in the suicide note.

7. *Prima facie*, though the incident which occurred on 29.01.2023 may be a precursor incident but there is discrepancy about the fact of the said incident also from what is observed. Witness statement recorded show that Accused No.1 had visited and threatened the victim at 02:00 p.m. in the afternoon and thereafter had re-visited his shop at 06:00 p.m. in the evening when the incident narrated in the FIR had occurred.

8. In the aforesaid, *prima facie* facts, in so far as role attributed

to present Applicant before me is concerned, it is not specifically identified neither stated qua the incident or whether Applicant had any role in the act committed by the victim. Neither the prosecution has conducted any Test Identification parade for identifying the presence of Applicant. In that view of the matter, incarceration of Applicant any further cannot be sustained. In the above *prima facie* facts, Applicant can be released on bail:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (ii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;
- (iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (iv) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;

- (v) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and
- (viii) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

9. It is clarified that the observations made in this order are limited for the purpose of granting Bail only. They shall not be construed as observations on merit. The trial shall be adjudicated on the strength of evidence led by parties and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

10. Bail Application No.339 of 2024 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]