

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3588 OF 2024

Abhishek R. Ghavane
V/s.
The State of Maharashtra

...Applicant

...Respondent.

WITH

INTERVENTION APPLICATION NO. 4132 OF 2024

.....

Mr. Abad Ponda, Senior Advocate a/w. Mr. Shailesh Kharat and Mr. Tanmay Kate for the Applicant.
Mr. Vinod Chate, APP for the Respondent/State.
Mr. Priyal G. Sarda a/w. Mr. Shubham Sane, Ms Seema Dighe and Mr. Rajesh Ranglani for the Intervenor in IA.
API Ravindra Godse, Lonikand Police Station, Pune city present.

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CORAM : N.R. BORKAR, J.
DATE : 12.03.2025.

P.C. :

1. This is an application for regular bail.
2. The applicant came to be arrested in Crime No.20 of 2022 registered at Lonikand Police Station, Pune for the offences punishable under Sections 302, 307, 341, 143, 147, 148, 149, 427, 120-B and 201 of the Indian Penal Code, Section 3(1)(i), 3(2), 3(3) and 3(4) of the Maharashtra Control of Organized Crime Act, Sections 3 and 4 read with 25 of the Arms Act and Section 37(1) (3) read with 135 of the Maharashtra Police Act.

3. The deceased Kumar Shinde and the deceased Prathamesh *alias* Sunny Kumar Shinde were father-in-law and brother-in-law of the complainant - Minal Shinde. It is the case of the prosecution that on the date of incident, which took place on 12.1.2022, they along with eye-witness Dnyaneshwar Chavan had gone to Shivajinagar Court, Pune to attend the hearing of bail application of the complainant's husband, who was arrested for allegedly committing murder of one Sachin Shinde. It is alleged that at about 6.30 p.m., the co-accused Nikhil Patil, who according to the prosecution is a gang leader and runs a organized crime syndicate, came there along with other co-accused and assaulted the deceased by deadly weapons and committed their murder at the instance of family members of Sachin Shinde.

4. I have heard the learned senior counsel for the applicant, the learned APP for the respondent - State and the learned counsel for the intervenor/complainant.

5. Learned senior counsel for the applicant submits that in the statements of the eye-witnesses recorded under Section 164 of the Cr.P.C., there is no reference of the present applicant. It is submitted that the allegations against the applicant are of conspiracy, however, from the statements of witnesses recorded under Section 164 of Cr.P.C., no such inference of conspiracy can be drawn. It is submitted that the applicant is in jail for more than 3 years and the trial has not commenced. The learned senior counsel for the applicant submits that considering the overall facts

and circumstances, the applicant may be released on bail.

6. On the other hand, learned APP for the respondent/State and the learned counsel for the intervenor/complainant submit that the complainant has specifically named the present applicant as one of the assailants. It is submitted that the present applicant was even the part of conspiracy. It is submitted that the applicant is a member of organized crime syndicate and is involved in three more crimes of serious offences. The learned APP and the learned counsel for the complainant submit that considering the nature of offence, the applicant may not be released on bail.

7. I have perused the statements of eye-witnesses recorded under Sections 161 and 164 of the Cr.P.C. As regards the eye-witness Dnyaneshwar Chauhan, there is no reference of the present applicant either in his statement recorded under Section 161 or 164 of Cr.P.C. As regards the complainant, she in her statement recorded under Section 161 of Cr.P.C. has named the present applicant as one of the assailants, however, in her statement recorded under Section 164 of the Cr.P.C., there is absolutely no reference of the present applicant. Those, who are the witnesses, on the point of conspiracy, their statements under Section 161 of Cr.P.C. came to be recorded after 48 days of the alleged incident. Apart from it, *prima facie*, from their statements recorded under Section 164 of the Cr.P.C., no such inference can be drawn. Considering the overall facts and circumstances of the case and as the applicant is in jail for more than three years and

the trial has not commenced, I am inclined to release the applicant on bail on certain conditions. In the result, the following order is passed.

ORDER

A] The Application is allowed.

B] The applicant be released on bail in C.R. No. 20 of 2022 registered at Lonikand Police Station, Pune for the offences punishable under Sections 302, 307, 341, 143, 147, 148, 149, 427, 120-B and 201 of the Indian Penal Code, Section 3(1)(i), 3(2), 3(3) and 3(4) of the Maharashtra Control of Organized Crime Act, Sections 3 and 4 read with 25 of the Arms Act and Section 37(1)(3) read with 135 of the Maharashtra Police Act on furnishing P.R Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

C] The applicant shall not enter into the limits of District Pune except to attend the dates before the trial Court till conclusion of the trial.

D] The applicant shall furnish his residential address and the contact number, if any to the Lonikand Police Station.

E] The applicant shall not tamper with the prosecution evidence.

F] The applicant shall not commit any other crime.

G] Liberty is granted to the State to file an application for cancellation of bail, if the applicant commits breach of any of the above conditions.

8. The Interim Application for Intervention also stands disposed of.

[N.R.BORKAR, J.]