IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL (ST) NO. 14333 OF 2024

Vicky Rajendra Jadhav ...Appellant

vs.

The State of Maharashtra and Anr. ...Respondents

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Mr. Kuldeep Nikam a/w Mr. Prasad Avhad	Advocate for the Appellant
Ms. Sangita E. Phad	APP for the Respondent No. 1
Mr. Pranav Badheka	Advocate for the Respondent No. 2 appointed through legal aid
Mr. S. S. Bhagat	API Shirwal Police Station, Satara

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CORAM : S. M. MODAK, J.

RESERVED ON : 18th OCTOBER 2024

PRONOUNCED ON : 24th OCTOBER 2024

P. C. :-

1. Heard learned Advocate Shri Nikam for the Appellant-accused no. 4 and learned APP Ms. Phad for Respondent No. 1-State and learned Advocate Shri Badheka for the Respondent No. 2 appointed through legal aid.

2. Earlier appeal filed by the Appellant seeking bail was disposed of as withdrawn on 07/12/2023. The Court (Coram: Shri S. M. Modak,

J.) was not inclined to grant bail that is why it was withdrawn. Liberty was granted to apply after a period of six (6) months.

3. During arguments learned Advocate Shri Nikam submitted that the materials collected during investigation only suggest role of the Conspirator against this Appellant. **On two grounds bail is sought**:-

(i) Trial has not started up till now and more than six months have expired from 07/12/2023.

(ii) Co-accused were granted bail by the trial Court and by this Court either prior to 07th December 2023 or afterward.

4. I have perused those Orders. The following accused were granted bail:-

Accused Nos.	**Name**	**Date**	**Bail granted by**
Accused No. 8	Anand Kamate	18/08/2023	By the trial Court
Accuse No. 7	Amol Bandopant Hulawale	05/04/2023	By the trial Court
Accused No. 3	Shankar alias Tatya Ashruba Parave	02/02/2024	By the trial Court
Accused No. 5	Nitish Patange	07/12/2023	By this court

5. Even though some of the co-accused are granted bail, this Court

is required to consider their roles and materials against them. At the same time, even though liberty is granted it does not mean *ipso facto* bail has to be granted. When Court is granting liberty, it means after gap of certain period Court wants to assess the stage of the trial. I presumed that charge is not framed. Even if such is the position, the Court has still to look into the materials and seriousness of the offence.

6. The Offences are under Sections 302, 201, 120-B read with 34 of the Indian Penal Code, under Sections 3 read with 25 of the Arms Act and under Section 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

7. When I have considered the materials, they suggest involvement of this Appellant as Conspirator and not as an assailant. On deeper scrutiny, I find amongst Conspirator, the materials against this Appellant is far better than the materials against the co-Conspirator.

8. Learned Advocate Mr. Nikam tried to point out certain lacunae in the investigation that is to say it is not clarified "*from the hotel Vaishali Pure Veg, how all the Conspirators have moved to the flat and terrace of the building Lake Palace on 20.02.2022 at about 5.30 p.m. wherein murder took place*". Further he tried to point out the variance

in between the statements of witnesses under Section 161 on one hand and Section 164 of the Criminal Procedure Code on the other hand.

9. This variance cannot be considered at the time of deciding bail application. I am more influenced by the facts. The present Applicant was working as partner in the business of Matka run by deceased Sanjay. It is this Appellant who left Bibwewadi Pune on 20.02.2022 at 10.30 a.m. together with deceased. It is this Appellant who was present in the hotel Vaishali Pure veg alongwith co-conspirator on the date of the incident at noon time. By the hoteliers the person accompanied the deceased was described as person having beard. This was confirmed by witness Gauri Dhaware. It is this Appellant who was seen in the CCTV cameras as person paying the bill of that hotel.

10. Above circumstances are sufficient to hold that the Appellant was very much involved since beginning in hatching the conspiracy to eliminate the deceased and he has also taken some part in implementing that conspiracy. **So no interference is warranted.**

11. If there will not be substantial progress in the trial within one year from today, the Appellant can apply again for bail. It will be considered on merits. Appeal is dismissed.

12. Copy of this Order be communicated to the Court of the Additional Sessions Judge, Wai, District Satara.

[S. M. MODAK, J.]

Signed by: Seema Yelkar
Designation: PA To Honourable Judge
Date: 24/10/2024 13:11:15