

Order below exh. 106 in S.T. No. 110/2021  
CNR MHAk01-001903-2021  
State Vs. Sagar and others.  
Bail U/s. 439 of Cr.P.C.

The applicant Sagar Prakash Kothade, accused in the alleged offence of murder and robbery [Cr.No. 427/2020 registered at MIDC Police Station u/s 302, 394, 120-B, 212, 201 r/w 34 of IPC besides secs. 3/25, 5, 27 (1), 7 & 27 (3) of the Arms Act] has prayed for regular bail (u/s 439 of Cr.P.C.).

2] It has been alleged that the applicant Sagar, an employee of the deceased Gopal Agrawal, was fired from job with insulting treatment. Enraged by the conduct of the deceased Gopal Agrawal, the applicant entered into a criminal conspiracy with the co-accused, to kill Gopal Agrawal. The applicant secured an illegal firearm with the help of one of the co-accused and practiced aiming and shooting at a secluded place. Thereafter, on the birthday of Gopal Agrawal, the applicant planned to kill him, on his way home. The murder was executed according to the plan and the deceased Gopal Agrawal was intercepted on the road, before he was shot dead by the applicant. The amount of ₹ 1,50,000/-, that the victim was carrying, was also robbed. The rider of the motorcycle, on which the victim Gopal Agrawal was traveling at the time of the incident, lodged a FIR later, the same day. Upon recollecting that the person opening fire at the victim was none other than the ex-employee, applicant, the informant made a supplementary statement, disclosing identity of the

applicant. Based on the information given by the informant, the police arrested the applicant on 28.12.2020. Eversince the applicant is behind bars.

3] It has been submitted by the ld. advocate for the applicant that charge-sheet having been filed, there is no point in denying bail to the applicant as of punishment. The applicant is said to be behind bars for almost two years. Attention of this court has been invited to the variations and discrepancies in the statements made by the informant while lodging FIR, while making a supplementary statement and also while making a statement u/s 164 of Cr.P.C. It has been submitted that the applicant has absolutely no role in the alleged offence and that false allegations have been leveled against him. It has been submitted that delay of about eight hours in lodging FIR and also the fact that F.I.R. was lodged against an unknown person, create a doubt about truthfulness of the prosecution case. The applicant undertakes to attend each and every date of the case.

4] The ld. advocate has placed reliance on the following decisions :

(i) Alankar @ Veer Mohan Rawat & Anr. Vs. State of Maharashtra – 2006 ALL MR (Cri) 1950.

(ii) Balkrishna Tukaram Angre Vs. The State of Maharashtra – 2018 ALL MR (Cri) 1388 (S.C.).

(iii) Ramesh Iranna Bali Vs. State of Maharashtra – 2018 ALL MR (Cri) 912 (S.C.),

(iv) Meghana Mangesh Lanjekar Vs. The State of Maharashtra & Ors. - 2016 ALL MR (Cri) 1029 &

(v) Durgesh Vilas Patil Vs. The State of Maharashtra & Anr. - 2019 ALL MR (Cri) 3656.

5] The application has been resisted on the grounds that the matter has been posted for hearing, that the applicant is the master mind behind the murder. He had grudges against the victim as the victim had fired him from job. The informant is an eye witness to the murder of Gopal Agrawal by the applicant. Recovery of the firearm at the instance of the applicant, prima-facie shows his involvement in the alleged offence. As per the ld. APP, the applicant and the co-accused have the potential to pressurize witnesses and tamper with evidence.

6] Heard both the sides. Variations and discrepancies between statements of witnesses can not be critically examined for the purpose of deciding bail application. The supplementary statement of the informant, wherein he named the applicant after realizing that the applicant was an ex-employee of the victim, has been recorded soon after lodging of F.I.R. (on the same day). The fact remains, the informant claims to be eye witness of the murder by the applicant. Recovery of the

weapon of offence (firearm) at the instance of the applicant, shows that there is corroborating material in support of the statement of the informant. The applicant is said to be the master mind of the alleged murder. The manner in which the alleged murder has been effected, shows that the applicant has more than what it requires, to tamper with evidence.

7] The peculiar facts of the case in hand can not be equated with those involved in the valuable cases cited above. In the present case, the applicant had approached the Hon. High Court for bail but subsequently, in the month of June-2022 the applicant withdrew the same. A charge has been framed already. Considering the gravity of the matter and the material available against the applicant I am not inclined to admit him to bail. The bail application deserves to be rejected, which I hereby do.

Date: 21-10-2022.

[ Vivek B. Gavhane ]  
Addl. Sessions Judge, Akola.

### Certificate

I hereby certify that the contents of this PDF File are same word for word as per original order.

Name of Steno : A.J. Dharamkar.  
Court's name : Dist. Judge- 4 & ASJ, Akola.  
Date of dictation : 21.10.2022.  
Signed by Presiding Officer on : 21.10.2022.  
Uploaded on : 21.10.2022.