

Sessions Case No.148/2023
State vs. Labjyotsingh & ors.

Applicant: Dadya @ Praful s/o. Waman Kukude.

ORDER BELOW Exh.6
(Passed on 12.12.2023)

By way of the present application accused-applicant is seeking bail in Crime No.404/2023 registered with Rajura Police Station under sections 302, 307, 120-B r/w section 34 of IPC and section 3/25 of Arms Act r/w section 135 of the Maharashtra Police Act (Sessions Case No.148/2023).

2. In short, a few facts necessary for disposal of the present bail application can be stated as under:

The FIR has been lodged by Mrunal Dohe. He is the brother-in-law of deceased Purvasha w/o. Sachin Dohe. Baldevsingh Rajvindarsingh Shergil is the alleged injured. The incident in question is dated 13.07.2023. It is alleged that accused persons and injured Baldevsingh had previous enmity. On the day of the incident in question injured Baldevsingh had been to house of husband of deceased Purvasha viz., Sachin Dohe along with one Nazia Rahim Khan. It is alleged that deceased Purvasha had came out of her house to see off the injured Baldevsingh and Nazia. She was talking with Nazia Khan and injured Baldevsingh was standing near his wife and he was talking with deceased Purvasha. It is further alleged that accused-applicant gave a tip to accused no.1 and JCL on phone regarding location of injured Baldevsingh near house of said Sachin Dohe. Upon receiving such a tip accused

nos.1 and JCL reached at the spot by means of motorcycle. Accused no.1 was a pillion rider. They came near of injured, stopped the bike and fired two rounds at injured Baldevsingh and deceased Purvasha. It is further alleged that while the injured was entering into the house of Sachin Dohe accused no.1 fired but it could not shot. As such accused no.1 did cock the fire arm twice. Injured Baldevsingh fled inside of the house and deceased Purvasha was lying on ground. Accused no.1 and JCL fled away.

3. Gravamen of allegation against accused-applicant is that he had old enmity with injured Baldevsingh. He had grudge in his mind about injured Baldevsingh. A criminal conspiracy was hatched by co-accused no.1 and JCL. Pursuant to such a criminal conspiracy accused-applicant for eliminating injured Baldevsingh gave a tip of his location to co-accused no.1 and JCL. Accordingly the fires were shot in which Purvasha Dohe died and Baldevsingh got injured.

4. In this application it is main contention of the accused-applicant that he has been falsely implicated. It is contended that there is nothing incriminating against accused-applicant to show that he is a party to the alleged criminal conspiracy. It is contended that on mere presumption the accused-applicant has been involved in the present crime. It is contended that CDR produced on record being a weak evidence cannot be a base for holding accused guilty of the alleged offences. It is contended that there is no prima facie material to show any

involvement of accused-applicant in the commission of the alleged offence. It is also contended that the accused-applicant is a young student pursuing graduation in Commerce Faculty. He is based at Rajura and residing at Somnathpura. Hence the application.

5. Prosecution has opposed the application by filing say vide Exh.7. It is contended that there is prima facie material to show that accused-applicant is involved in the alleged offence. It is also contended that the offence in question is of serious nature. It is also contended that if the accused-applicant is granted bail there is possibility of threatening to prosecution witnesses.

6. I have heard both the sides. I have perused the charge-sheet.

7. It is material to note that the case has been committed to the Court of Sessions. A perusal of the charge-sheet would show that prosecution has invoked section 120-B of IPC with an allegation that accused-applicant, co-accused no.1 and JCL hatched a criminal conspiracy to eliminate injured Baldevsingh. It is further case of prosecution that pursuant to such a criminal conspiracy two shots were fired at injured Baldevsingh and one fire shot hit deceased Purvasha and she succumbed to the injuries. Dying declaration of injured shows that co-accused no.1 and JCL fired shots at him and deceased Purvasha. In so far as charge-sheet material *qua* accused-applicant is concerned prima facie the CDR produced on

record shows that accused-applicant and co-accused, JCL were in contact with each other on mobile phone. They were found under one location. Prima facie it appears that accused-applicant, co-accused no.1 and JCL were in touch with each other. Therefore, prima facie the allegation *qua* accused-applicant that he gave a tip of location of injured Baldevsingh to co-accused no.1 and JCL appears to be well founded. Having said so, I find that at this stage there is sufficient prima facie material to show that accused-applicant was a party to the criminal conspiracy. It is well settled that there can be seldom direct evidence of hatching of a criminal conspiracy. For the purposes of the present bail application the question of criminal conspiracy shall have to be appreciated by prima facie angle and on the basis of the prima facie appreciation of the material. As indicated above, the circumstance that at the relevant time on 23.07.2023 accused-applicant and co-accused no.1 who is the main perpetrator of the crime were in touch with each other on mobile phone under same location appears to be the incriminating material against accused-applicant. Having said so, I find that this cannot be a case of no evidence against accused-applicant.

8. Question of grant of bail in the present case shall also have to be viewed from another angle of nature of the crime. It appears that an innocent lady has been killed in an incident arising out of enmity in between injured Baldevsingh and co-accused no.1. Prima facie there appears to be a reasonable

nexus in between co-accused no.1 and accused-applicant. The injured was also attacked by fire shots. Fortunately the injured survived and unfortunately the innocent lady died. In any case the fact that remains on record that gravity of the alleged offence is at a very higher side. The alleged offences are punishable either with death sentence or imprisonment for life. On behalf of accused-applicant it was tried to show that the accused-applicant is a young boy pursuing Commerce graduation. Certain documents are produced on record to show this fact and to show that accused-applicant is a sportsman. I find that the circumstance of young age of accused-applicant has no bearing upon the bail application for the reason that gravity of the alleged offence is at a very higher side for which either death sentence or imprisonment for life is provided. Considering such a fact and situation and taking a over all view of the matter, I do not find that this can be a deserving case to grant bail to accused-applicant. Hence the following order is passed:

Order

Application (Exh.6) stands rejected.

Date : 12.12.2023.

(Girish G. Bhalchandra)
Addl. Sessions Judge-2,
Chandrapur.