

**MHPU010095932018**



**Order below Exh.217 in Spl. MCOCA Case No. 39/2018**

Accused No.6- **Nitin Dashrath Dangat** was arrested on 22/03/2018 in connection with C.R.No. 10/2018 registered in Deccan Police Station under Sec. 302, 307,120-B, 201 of IPC, under Sec.3, 25, 27 of the Arms Act, under Sec.37(1)(3) r/w 135 of the Maharashtra Police Act and under Sec.3(1)(i), 3(2), 3(3), 3(4) of the Maharashtra Control of Organized Crimes Act,1999 (MCOCA). He has filed this application for bail under Sec. 439 of the Cr.PC. He contends that this is his fifth bail application and no other application is pending in any other Court.

2. This application was filed on 25/10/2023 and was argued before by learned predecessor but he could not decide it. Ultimately, it is argued afresh. The accused Surendra Pal (accused No.3), Shankar Nawale (accused No.3), this accused Nitin Dangat (accused No.6) and Sameer Sadawarte (accused No.7) had filed bail applications which were decided on 28/12/2018 by common order and they were rejected. The accused Surendra Pal and Shankar Nawale were subsequently released on bail by the Hon'ble High Court. Taking it as the change in circumstance, this accused filed second bail application before this Court but it was rejected on 18/02/2020. This accused then filed third bail application before the Hon'ble High Court but it was rejected on 03/01/2023. The bail application filed by the accused Sameer Sadawarte was also rejected by the Hon'ble High Court on 24/02/2020 This accused challenged the order rejecting his bail application by the

Hon'ble High Court in SLP before the Hon'ble Apex Court but it was also rejected on 13/04/2023. The accused Sameer Sadawarte was subsequently discharged by this Court on 26/04/2023. This accused has therefore, come with this fifth bail application contending *inter alia* that he stands on much better position than the accused Sameer Sadawarte as regards their alleged role in the incident. Sameer Sadawarte has been discharged and that can be taken as change in circumstance which would justify his release, at least on bail.

3. Obvious question that may arise as to whether this Court would have judicial propriety to entertain this application, when the Hon'ble High Court has rejected the bail application of this accused and that order has not been interfered with by the Hon'ble Supreme Court?

4. Smt. Ujjwala Pawar, the learned special P.P. has filed detailed say (Exh.226) and she vehemently submits that there was absolutely no ground for this accused to file such bail application when his bail plea has been refused upto the Hon'ble Supreme Court. The accused Sameer Sadawarte has been discharged for separate grounds as mentioned in the order and this accused cannot be equated with him to justify his filing bail application by taking it to be the change in circumstance. This accused has independent and definite role in the alleged incident and by taking it into consideration, his prayer for bail has been rejected upto the Hon'ble Supreme Court. Therefore, no such application can be entertained on the ground of change in circumstance or parity, much less on merit. It is liable to be rejected at threshold. Shri. Rhishikesh Ganu, the learned advocate has intervened on behalf of the informant and has filed say (Exh.245) opposing this application on similar grounds.

5. Shri. Harshad Nimbalkar, the learned advocate for the accused has referred the order dated 13/04/2023 of the Hon'ble Supreme Court which reads as under-

“While we are not inclined to interfere with the impugned judgment, we leave it open to the petitioner to file a fresh application for bail in case there is substantial change in circumstances or trial gets prolonged for reasons not attributable to the petitioner or co-accused.

Recording the aforesaid, the special leave petition is dismissed.”

6. The learned advocate for the accused submits that in view of the above order, the dismissal of the special leave petition of the accused does not come in his way to file this application. Rather, the right to file such application is expressly kept open on two contingencies; firstly, if there is substantial change in circumstances and secondly, if the trial gets prolonged for the reasons not attributable to this accused or co-accused. Both the grounds have been accrued to the accused and thus, he is before this Court with this application. Even otherwise, there is no legal bar to file successive bail applications whenever, right to file such application accrues to the accused.

7. According to me, in view of the above order of the Hon'ble Supreme Court, filing this application is not barred. Such right is expressly kept open. Whether twin conditions embodied in the order are satisfied by the accused or not would be the subject of further inquiry. Before advertng to the accusation of and evidence collected against this accused, it would be profitable to refer two rulings cited by the learned advocate for the accused, as the facts and circumstances can be re-visited in the light of what is held in those judgments. The judgment in

*Javed Gulam Nabi Shaikh v/s State of Maharashtra [(2024) 9 SCC 813]*

was delivered on 03/07/2024, when this application was pending. The appellant was in jail as an undertrial prisoner since past four years. The trial Court had not been able to even proceed to frame charge and the prosecution was intending to examine not less than eighty witnesses. Taking into consideration this aspect of the matter, various precedents were referred. To be precise from the valuable guidance flowing through entire judgment, it would suffice to refer para 7 to 10 which read as under-

“7. Having regard to the aforesaid, we wonder by what period of time, the trial will ultimately conclude. Howsoever serious a crime may be, an accused has a right to speedy trial as enshrined under the Constitution of India. Over a period of time, the trial Courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment.

8. In the aforesaid context, we may remind the trial Courts and the High Courts of what came to be observed by this Court in *Gudikanti Narasimhulu v. High Court of A.P* [(1978) 1 SCC 240]

“5. ... What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said [*R. v. Rose*, (1898) 18 Cox CC 717]:

‘I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial.’ ”

9. The same principle has been reiterated by this Court in *Gurbaksh Singh Sibbia v. State of Punjab* [(1980) 2 SCC 565] that the object of bail is to secure the attendance of the accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment.

10. Long back, in *Hussainara Khatoon v. State of Bihar* [(1980) 1 SCC 81], this Court had declared that the right to speedy trial of offenders facing criminal charges is “implicit in the broad sweep and content of Article 21 as interpreted by this Court”. Remarking that a valid procedure under Article 21 is one which contains a procedure that is “reasonable, fair and just” it was held that:

“5. ... Now obviously procedure prescribed by law for depriving a person of liberty cannot be “reasonable, fair or just” unless that procedure ensures a speedy trial for determination of the guilt of such person. No procedure which does not ensure a reasonably quick trial can be regarded as “reasonable, fair or just” and it would fall foul of Article 21. There can, therefore, be no doubt that speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. The question which would, however, arise is as to what would be the consequence if a person accused of an offence is denied speedy trial and is sought to be deprived of his liberty by imprisonment as a result of a long delayed trial in violation of his fundamental right under Article 21.”

8. The second judgment relied on is in *Sachin Ekhatpure v/s State of Maharashtra [AIROnline 2023 BOM 1393]*. In that case, the accused allegedly fired on deceased resulting into death of the deceased. The prosecution proposed to examine about 88 witnesses. The accused was languishing in jail for more than 5 years. The trial had not commenced. There were no criminal antecedents against the accused. The conclusion of trial was likely to take long time. Taking into consideration all these aspects, the accused was released on bail. This judgment is cited to submit that all the circumstances existed in that judgment are existed in the case in hand which would justify release of this accused on bail.

9. This propels me to come to the incident. The deceased Deven Jaysukhlal Shah, on a fateful evening of 13/01/2018, celebrated

birthday of his wife in one hotel with his family and returned home in Sayali Apartment, Lane No.7, Prabhat Road, Pune. At about 11.10 p.m., his door bail rang. He opened the door and saw one of the watchmen namely Sunilkumar Nirmal who was running laundry in the parking space. He told that two persons are calling him to the parking space. Deven Shah and his son Atit (informant) therefore, went to the parking space and they saw that the accused No.1 Ravindra Chorage was there with one unknown person. Both of them opened fire at Deven Shah and fired one round each and Deven Shah sustained bullet injuries on his chest and stomach. Atit tried to apprehend them but they fired at him also but fortunately, he did not sustain any injury. Both of them fled away by their motorcycle. Deven Shah was taken to the hospital but succumbed to injuries. The incident was reported to Deccan Police Station and Atit lodged complaint against two unknown persons at about 5.26 a.m. on 14/01/2018 and based in it, the crime was registered.

**10.** On 22/03/2018, Atit gave statement to police that he was knowing one of the assailants to be Ravindra Chorage, as he was seen by him earlier coming to his office in relation to his business but due to fear and by taking into consideration that there is no support to his family behind back of his father, he did not name him in FIR. He gave information regarding business transaction of his father and based on it, other accused were connected to the crime and they were arrested. The supplementary statement of Atit was accordingly recorded on 21/06/2018. Another assailant was identified and he was the friend of Ravindra Chorage namely Rahul Shivtare (accused No.2). Other seven accused were arraigned with aid of Sec.120-B of IPC.

**11.** The material collected during investigation to connect this accused Nitin Dangat to the crime was in the form of his business transactions with the deceased, CDR details, confessional statements of the assailants and the statements of the material witnesses. Barring the unnecessary details of other accused at this stage, the relation between this accused and the deceased Deven Shah relates back to the year 2005, when Deven Shah was doing ceramic business in the premises owned by this accused on rent. Deven Shah thereafter, started real estate business by name ‘Ambika Group’ and this accused was helping him in that business on commission basis. In the year 2008, this accused introduced Sameer Sadawarte to Deven Shah and they told him that they can arrange for 400 Acres of land situated at village Darawali and Mulashi and Deven Shah should invest money in the said lands. Ultimately, it was agreed that this accused, with help of Sameer Sadawarte shall negotiate with the farmers, arrange for the title documents and finalize the transactions with them at their level. Deven Shah shall pay Rs. 5 Lakhs per Acre. He will pay 25% of actual profit to this accused. Deven Shah paid near about Rs.14 Crores to Sameer Sadawarte for those transactions. He also paid Rs.3 Crores to this accused as 25% of profit. However, they could not finalize all the transactions and Deven Shah was facing difficulties regarding title documents of some of the farmers.

**12.** Realizing that all the transactions cannot be finalized, this accused decided to retire himself from those transactions. Accordingly, in the year 2010, a mutual agreement was executed between this accused and Deven Shah. Sameer Sadawarte settled the transactions and cleared the dues of Deven Shah. However, This accused was not discharging his duties as per the agreement nor was returning Rs.3 Crores.

**13.** In the year 2014, Deven Shah approached Ravindra Chorage and Vitthal Nimbalkar for their help to recover the amount of Rs.3 Crores from this accused through Kishor Aware, who was the common friend of them and this accused. Ravindra Chorage, Mahesh Mengane and Vitthal Nimbalkar were residing in the same locality and Ravindra Chorage came in contact with Vijay Hajare from Karjat, Dist. Raigad and Kishor Aware from Talegaon through Mahesh Mengane, who came to be murdered subsequently. Ravindra Chorage came in contact with Dada Vighne through Vitthal Nimbalkar. All were working as the commission agents in real estate.

**14.** In the year 2013, one Sikander Shaikh had brought proposal to Ravindra Chorage of 62 Acres of land at Borivali. He Contacted Vijay Hajare at Karjat and he introduced him with Pandit Agarwal from Indore, (M.P). It is said that Pandit Agarwal was a man of gangster Chota Rajan. All of them decided to intervene in the transaction between Deven Shah and this accused as per request of Deven Shah. They arranged a meeting with Deven Shah at Harvest Club near Mhatre bridge. Deven Shah told them in the meeting that he has dues of Rs.11 Crores from this accused which he is not paying. If they managed to recover that amount, he will pay their commission. The commission of 50% was demanded but subsequently, it was finalized at 30%. A joint meeting was called with this accused and Deven Shah wherein, this accused agreed to clear the title of remaining lands. On the next day, a meeting of Deven Shah, this accused and Sameer Sadawarte was held wherein, all the disputes were settled and this accused and Sameer Sadawarte agreed to pay Rs.5 Crores to Deven Shah.

**15.** For the aforesaid deal, the above persons were to get Rs.1 Crore 10 Lakhs from Deven Shah. Out of it, Deven Shah paid token amount of Rs.75 Lakhs to Pandit Agarwal. Out of the said amount, Rs.2,50,000/- were paid to Ravindra Chorage. Vijay Hajare, Dada Vighne and Vitthal Nimbalkar received the similar amount. After some days, Ravindra Chorage was in need of money and he therefore, inquired with Pandit Agarwal about remaining amount due from Deven Shah. He told that Deven Shah has not paid remaining amount and he is not receiving his call. So, he has to meet Deven Shah and recover that amount. Accordingly, Ravindra Chorage was frequently meeting to Deven Shah but he was not paying the said amount. Subsequently, Pandit Agarwal also stopped to make or receive his phone call.

**16.** Thereafter, 10 months prior to the incident, Pandit Agarwal gave a pistol to Ravindra Chorage at Khopoli to kill Deven Shah, if he failed to pay the remaining amount. Ravindra Chorage shown that pistol to his friend Rahul Shivtare, who also shown another pistol with him saying that he has purchased it for Rs.60,000/- from Sonu Rathod from Ujjain (M.P). Pandit Agarwal was making phone call to Ravindra Chorage and was asking him to meet Deven Shah and demand the remaining amount and if he refused to pay, kill him by using pistol given to him. In 2017, Pandit Agarwal came to Pune and told Ravindra Chorage to wait for some time, Deven Shah would be either abducted or killed.

**17.** On 13/01/2018, Ravindra Chorage made phone call to Pandit Agarwal asking whether Deven Shah has paid the remaining amount. Pandit Agarwal replied that Deven Shah is not paying money and he should abduct him, he is coming to Pune on 15/01/2018 and he

would be killed and he disconnected the call. Ravindra Chorage then contacted Rahul Shिवtare, they hatched conspiracy, came with loaded pistols and killed Deven Shah.

**18.** The Investigating Officer has opposed this application by filing his say (Exh.227) mainly on the ground that bail application of this accused has been rejected upto the Hon'ble Supreme Court and he has no right to file such application again. Secondly, the incident has taken place for recovery of an amount of Rs.3 Crores from this accused and his involvement in alleged crime has been disclosed during investigation. The offence is serious and there is direct evidence in the form of the CDR details of contacts between him and other accused pointing instigation by this accused in the crime committed by the main accused. If this accused is released on bail, he would pressurize the prosecution witnesses. The offence committed by the main accused attracts punishment of death or life imprisonment and this accused is equally liable for the same punishment with aid of Sec.120-B of IPC. Therefore, he stands *at par* the main accused. He therefore, may not be released on bail. The arguments advanced by the learned Spl.PP and the learned advocate for the informant are similar to above contentions.

**19.** Having considered the rival submissions and on going through the investigating papers, the learned Spl.PP has submitted compilation of relevant investigating papers and other documents collected during investigation, in support of her submissions. The careful reading of the same becomes imperative.

**20.** Starting with the FIR, the son of the deceased Atit, who was the eye witness of the incident, lodged complaint against two unknown

persons although, he was knowing that one of them was Ravindra Chorage. In his subsequent statement before police, he disclosed the name of Ravindra Chorage and suspected that his father might have been killed in relation to the transactions with this applicant Nitin Dangat and Sameer Sadawarte relating to 400 Acres of land at village Darvali and Mulshi. In his supplementary statement, he gave further details of the said transactions stating that his father had invested an amount of Rs. 14.5 crores in those lands and had paid excess amount of Rs. 2.5 Crores to Sameer Sadawarte and Rs. 3 Crores to this accused Nitin Dangat. So, he expressed suspicion that the said transaction might be the cause for elimination of his father.

**21.** Witness Vishwanath Tapkir was the business partner of deceased Deven Shah and he spoke about various transactions entered into with him. He received information early in the morning on 14/01/2018, that Deven Shah has been shot dead but he was not knowing who killed Deven Shah. In his supplementary statement, he gave further details about the transactions of the lands at Darvali and Mulshi and stated that in the year 2010, this applicant withdrew himself from those transactions with agreement that he will complete the incomplete work and agreement was executed between them in that regard. This accused could not complete his part and consequently, in the year 2015 he issued a cheque of Rs. 3 crores to Deven Shah but he did not encash the said cheque. He suspected that due to incomplete transactions of the lands at Darvali and Mulshi, Deven Shah might have been killed.

**22.** Witness Vijay Hajare was from Karjat, Dist. Raigad and was knowing Ravindra Chorage through his friend Mahesh Mengde since last

15 years. Mahesh Mengde was killed and since then, he was rarely coming to Pune. He was having his friends namely Dada Vighne and Vitthal Nimbalkar at Pune. He was also knowing Pandit Agarwal from Indore, MP as he was having his hotel at Goregaon, Mumbai and all of them were doing the business of estate agents. In the year 2014, Ravindra Chorage and Vitthal Nimbalkar brought Deven Shah to a hotel near Mhatre bridge and he met them there. Deven Shah told him that Nitin Dangat has to pay Rs. 5 crores to him but he is not paying that amount. Nitin Dangat was the friend of Kishor Aware and Kishor Aware was the friend of Vijay Hajare. So, Deven Shah requested them to help him to recover the aforesaid amount from Nitin Dagat and he agreed to pay their commission. Kishor Aware accordingly, arranged meeting in the office at Aundh in which he, Nitin Dangat, Deven Shah, Ravi Chorage, Dada Vighne, Vitthal Nimbalkar and Pandit Agarwal were present. In that meeting, the transaction of Deven Shah with Nitin Dangat was resolved and Nitin Dangat agreed to get cleared title of the lands at Paud and Darvali. He received the commission of his share of Rs. 50,000/- which was paid by Pandit Agarwal. Since then, he did not meet Ravindra Chorage.

**23.** In his supplementary statement, he further gave details that Deven Shah was saying that Nitin Dangat was required to pay him Rs. 11 crores and Pandit Agarwal took responsibility to recover that amount and demanded 50% of that amount as commission. Deven Shah subsequently agreed to pay 30% of the said amount. A meeting was held and Nitin Dangat agreed to repay Rs. 5 crores and Deven Shah agreed to pay Rs. 1 crore as commission to Pandit Agarwal. Some meetings were held to act upon the agreement and after 4-5 months, Pandit Agarwal told him that Deven Shah has paid Rs. 80 lakhs under the said

transaction. He paid Rs. 2.5 lakhs each to Dada Vighne, Vitthal Nimbalkar and Ravindra Chorage and remaining amount was to be paid to Sheth (Chota Rajan). After some days, Pandit Agarwal met him and paid Rs. 1 lakh at Panvel and he went to Indore. After some days, Pandit Agarwal told him that the remaining amount is not possible to be recovered from Deven Shah. He came to know from T.V. news that Deven Shah is shot dead.

**24.** Dada Vighne was selling clothes on the road at Pimpri Chinchwad area from 1998 to 2000. He subsequently started Saree Center by name "Krishna Creation" at Bijlinagar and from the year 2011, he started working as commission agent in real estate. He came in contact with Deven Shah through Suhas Roge from Walkeshwar, Mubmai. He also came in contact with Vitthal Nimbalkar in relation to food donation program at Vitthal Temple Navi Peth Pune. He used to take advice of Deven Shah in his real estate business. Deven Shah purchased some lands at village Paud through Nitin Dangat and Sameer Sadawarte and he paid certain amount to them but the transactions were not to be completed. Deven Shah therefore, suggested him to find some solution for the same. After some days, he met Vitthal Nimbalkar, Ravindra Chorage, Vijay Hajare and Pandit Agarwal at Vitthal mandir and the issue of Deven Shah was discussed. It was found that Nitin Dangat is a friend of Kishor Aware and the matter can be settled through him. Accordingly, they arranged meeting with Deven Shah and they agreed to recover the due amount from Nitin Dangat but they asked Deven Shah as to what consideration he will pay to them. They demanded 50% of the total amount to be recovered, which Deven Shah denied but he subsequently, he agreed to pay 30% of the amount.

**25.** Accordingly, a joint meeting was arranged with Nitin Dangat and Deven Shah and both of them agreed to settle their transactions. After one month, both of them called him, Ravi Chorage, Pandit Agarwal and Vijay Hajare in the office of Deven Shah and they were told that Deven Shah has settled his dispute with Sameer Sadawarte and has also finalized the dispute with Nitin Dangat as well. Nitin Dangat woes to pay him Rs. 3.5 crores. He has paid Rs. 50 lakhs by cash and has issued post dated cheque of remaining amount of Rs.3 Crores. After some days, Deven Shah called Pandit Agarwal from Madhya Pradesh and paid him Rs. 75 lakhs as his commission. Pandit Agarwal paid Rs. 2.5 lakhs to him and similar amount was given to him to be paid to Vitthal Nimbalkar, which he paid.

**26.** After some days, Deven Shah called him and told that the period of validity of the cheque issued by Nitin Dangat is expired. He therefore, asked Nitin Dangat for payment of the said amount and he assured to pay it but asked for some time. After two months, Nitin Dangat told that he is unable to pay the said amount and alternatively, he will give his land to Deven Shah. However, Nitin Dangat did not act accordingly despite several request made for the same. Lastly, Deven Shah called him in his office and told that it will not be within his capacity to recover the amount from Nitin Dangat and he himself will deal with the matter as per his procedure and he should not make phone call to Nitin Dangat. Therefore, all of them dropped the said issue but Ravindra Chorage was continued to visit the office of Deven Shah to recover remaining commission of Rs. 30 lakhs, to be paid by him for the aforesaid transaction. In his supplementary statement, Dada Vighne gave further details of the transactions with Deven Shah and Nitin

Dangat in consonance with his earlier statement and told that he saw the news on TV channel on 14/01/2018 that Deven Shah is shot dead.

**27.** Vikas Shinde was doing cable network business and he had installed Cable Tower on terrace of the building of applicant Nitin Dangat. In the year 2003, there was criminal case registered against him and Nitin Dangat in Bundgarden Police Station and Nitin Dangat was released on anticipatory bail. On request made by him, he tried to settle the dispute between him and Deven Shah and attended the meetings for the said purpose in the year 2015 wherein, Deven Shah demanded either the land or the commission amount. After some time, Nitin Dangat told him that Ravindra Chorage, Pandit Agarwal and Vijay Hajare are harassing him for repayment of the amount of Deven Shah. He was the member of the meetings held and he states about the discussion took place therein, similar to earlier witnesses.

**28.** He further states that he heard news on TV channel on 14/01/2018 that two unknown persons shot dead Deven Shah and at about 2.30 to 3.00 p.m., Ravi Chorage came to his house with a plastic bag, in which, there were two pistols and he told him that he along with his friend Rahul Shivtare have fired at Deven Shah. He demanded some amount to flee away in Konkan area. He paid Rs. 10,000/-. He also went to Rupesh Misal Hotel at Somatne Phata and paid Rs. 30,000/- to him and Rahul Shivtare was present there. His supplementary statement was also recorded.

**29.** Vitthal Nimbalkar has stated about the transaction between this accused and Deven Shah and the meetings held to resolve the said dispute. He admits that Dada Vighne paid him Rs. 2,50,000/- as his

commission for resolving their dispute. Hitendra Patel is a business partner of Deven Shah, who had invested some amount for purchasing the lands at Darvali. Nitin Dangat was also the partner in that deal who retired in the year 2011 by giving all rights to Deven Shah. He has not stated anything about the actual incident or the motive behind it. Similar is the statement of Vimal Kalria and Pravin Patel.

**30.** All these witnesses state about the transaction between this accused Nitin Dangat, Sameer Sadawarte and Deven Shah. None of the witnesses has stated anything about any conspiracy with Nitin Dangat to eliminate Deven Shah. The written agreement dated 15/08/2010 between Deven Shah and Nitin Dangat shows the terms and conditions regarding the transactions of the lands at village Dhayri. Similar agreement has been executed between them regarding the lands at village Darvali and Paud. There is an agreement dated 25/08/2010 whereby, Nitin Dangat has retired from all his responsibilities and issued a cheque of Rs. 3 Crores to Deven Shah, in discharge of his pecuniary liability, while agreeing to complete the work which was remained incomplete.

**31.** The prosecution has placed strong reliance on the confessional statements of two assailants i.e. Ravindra Chorage and Rahul Shivtare. Although, both them have retracted those confessions, the prosecution relies on the same for the purpose of finding conspiracy of this accused in killing Deven Shah. The confessional statement of Ravindra Chorage discloses that he was acquainted with both Deven Shah and Nitin Dangat, in relation to the land transactions. He has narrated his family background and his participation in real estate business and the role played by him with other accused in resolving the

dispute between this accused and Deven Shah. The careful reading of the confessional statements of both of the assailants reveals that they have nowhere stated in their confessional statements that Nitin Dangat was the member of conspiracy to kill Deven Shah. They have stated that Nitin Dangat was liable to pay Rs. 3 Crores to Deven Shah and when Deven Shah approached them to recover the said amount, they extended help and resolved the matter, in consideration of the commission of Rs. 1.10 Crores. Deven Shah had paid Rs. 75,00,000/- and he was not paying the remaining amount, despite several requests. Pandit Agarwal, who was said to be the man of Chota Rajan, gave a pistol to Ravindra Chorage, saying that Deven Shah shall be killed by using that pistol, if he did not pay the remaining amount. It is therefore, Ravindra Chorage took help of Rahul Shivtare who was already having another pistol and both of them went to the residence of Deven Shah and shot him dead.

**32.** Thus, the motive behind killing Deven Shah was not the transaction between Nitin Dangat and Deven Shah but it was the transaction between Deven Shah and these accused, who mediated between Nitin Dangat and Deven Shah in consideration of commission of Rs. 1.10 Crores and he failed to pay the same entirely.

**33.** To find motive of this accused behind commission of this crime, there appears no prima facie motive, much less, his actual participation in conspiracy to kill Deven Shah. As per the FIR itself and the statements of prosecution witnesses, the business transactions of Deven Shah with Nitin Dangat were settled and Nitin Dangat agreed to repay Rs. 3 Crores and issued a post dated cheque of that amount to Deven Shah. So apparently, Nitin Dangat was completely discharged

from his liabilities under the transactions with Deven Shah. Therefore, there appears no motive at all of this accused Nitin Dangat to commit murder of Deven Shah. None of the co-accused or witness states that Nitin Dangat was one of the conspirator in killing Deven Shah.

**34.** The record shows that Deven Shah had received a cheque of Rs. 3 Crores from Nitin Dangat. It was not encashed by him for the reasons best known to him. The said cheque has been recovered during investigation. Deven Shah had thus, legal remedy to recover the said amount of Rs. 3 Crores. He could have presented the cheque for encashment and if it could have been dishonoured, it was possible for him to prosecute Nitin Dangat for dishonour of cheque. Instead of adopting such legal mode, Deven Shah adopted unusual mode to approach other accused in this case and entered into transaction with them to recover that amount paying commission of Rs. 1.10 Crores. He could not comply with his commitment to pay that amount and consequently, he has lost his life. The confessional statements of both these accused do not connect Nitin Dangat in conspiracy to kill Deven Shah. Even otherwise, there was no reason for Nitin Dangat to become a member of such conspiracy, as he was already retired from business responsibilities with Deven Shah.

**35.** Insofar as the transactions of the lands at Daravali and Mulshi are concerned, Nitin Dangat and Sameer Sadawarte were playing similar role. Sameer Sadawarte settled his accounts with Deven Shah. Still, he was arraigned as an accused in this case. His bail application was rejected by the Hon'ble High Court. However, he succeeded to make out a case for his discharge and my learned predecessor has discharged him as per order on Exh. 159. This accused is praying for his release on

bail on the ground of parity, saying that he was playing similar role as that of Sameer Sadawarte and he has similarly discharged from his responsibilities relating to the transactions of those lands with Deven Shah.

**36.** The circumstances noted by the Hon'ble High Court in Javed Shaikh's case (*cited supra*) are existed in this case. This accused is an undertrial prisoner since last 6 years. Although, the prosecution has submitted draft charge, the charge is yet not framed due to pendency of such interim applications. There are number of witnesses to be examined and the trial is not likely to conclude in near future. According to me, the discharge of Sameer Sadawarte from the case, after rejection of SLP of this accused filed before the Hon'ble Supreme Court would give tenable ground to this accused to come with a prayer for bail. Keeping in mind the principles laid down by the Hon'ble Apex Court in the judgment in Javed Shaikh's case, his bail plea shall be considered positively. This accused is the local resident having his movable and immovable properties and has roots in the society. He is not at flight risk. The suitable conditions can be imposed preventing him from pressurizing the prosecution witnesses or interfering with the prosecution evidence. The grounds which were mentioned in above two judgments would be available to this accused in changed circumstances.

**37.** Insofar as bar contained in in Sec.21(4) of MCOC Act is concerned, there is no single crime registered against this accused since last 10 years. The statement of one witness shows that one case was registered against him in the year 2003 but police had submitted final report under Section 169 of the Code of Criminal Procedure against this accused. Thus, the basic requirement for invocation of the provisions of

MCOCA does not appear to have been complied with. Secondly, none of the prosecution witnesses has stated anything against this accused to connect him to the organized crime syndicate of Ravindra Chorage, Pandit Agarwal and others. Nobody has stated that this accused was anyway connected, prior to this incident or at the time of any other incident in the past, that he was the member of their crime syndicate. Thus, the evidence regarding continuing unlawful activity by this accused is completely missing. Under the circumstance, it is doubtful whether the provisions of MCOCA can be applied to this accused. However, since there are no criminal antecedents against this accused, it can safely be presumed that he will not commit any such offence under the Act, if released on bail.

**38.** The prosecution has referred CDR and has given a chart of contacts between this accused Nitin Dangat, Deven Shah and other accused. According to me, such CDR and chart would be inadequate, at this stage to presume conspiracy by Nitin Dangat, in absence of any other corroborative evidence. The record shows that there were business transactions between Nitin Dangat and Deven Shah and there were several meetings held with other accused in relation to their liabilities. They were in touch with each other for considerably long period. Thus, it is quite obvious that they may have telephonic communications between them. Such telephonic communication cannot be made basis for presuming conspiracy of this accused with other accused in killing Deven Shah.

**39.** In view of these reasons, I am of the considered view that this accused has made out a case for his release on bail and this application deserves to be allowed. Hence, the following order.

**ORDER**

1. The application is allowed.
  
2. Accused **Nitin Dashrath Dangat**, who was arrested on 22/03/2018 in connection with C.R. No. 10/2018 registered in Deccan Police Station under Section 302, 307, 34 of IPC, Section 3(25) of the Arms Act, Section 37(1)(3) r/w 135 of the Maharashtra Police Act and under Section 3(1)(ii), 3(2), 3(3) and 3(4) of MCOC Act, be released on bail on his furnishing P.R. bond in the sum of Rs.1,00,000/- with one or two sureties of the like amount on following conditions-
  - a) The applicant shall not visit the place where the informant and other prosecution witnesses reside and shall not pressurize them and shall not indulge in any criminal activity.
  - b) The applicant shall submit his address proof and phone details as well as phone details of his two close relatives.
  - c) The applicant shall not leave India without prior permission of this Court.
  - d) Violation of any of the conditions may intel a ground for cancellation of bail.
  
3. Bail application stands disposed of accordingly.

Pune  
Date: 17/12/2024

**(S.R. Salunkhe)**  
Additional Sessions Judge, Pune.