

State Vs Mangesh @ Mayur Chavan
S. C.31/2018

ORDER Dtd.17/09/18.
(Below Exh 18.)

This is an application seeking release of accused no. 1 Mangesh @ Mayur Chavan on regular Bail. It is contended in the application that the earlier bail application made before presentation of the charge-sheet came to be rejected. The application made before the Hon'ble High Court came to be withdrawn, as the charge-sheet came to be presented in the Court.

2] It is further submitted that the informant and accused were friends, the dispute occurred due to business transactions. The accused is in the custody from 9/12/2017. Now, the investigation is complete. The accused is ready to abide by all the conditions and not to flee from the justice. It is submitted that another accused has been granted bail. Hence, the application be allowed.

3] Learned A.P.P. opposed the application by filing say on the overleaf of the application. It is submitted that there are no change in circumstances entitling the release of accused on bail. The offence is serious and capital punishment is provided for. The accused used the Pistol in commission of crime, with intend to kill informant, however, he sustained the injury on his arm. There is an eye witness to the incident. The Pistol and Bullets came to be seized. The CDR report shows calls by and to the accused. The accused and informant are resident in the same Taluka. Tampering of evidence cannot be ruled out. Hence, the application be rejected.

4] Heard both sides and perused the record. Learned Adv. for the accused submitted that charge sheet has been presented, the accused is in the custody about a year and is not likely to flee from the justice. It is submitted to allow the application.

5] Learned A.P.P. reiterated the submissions made in the say. It is contended that looking to the seriousness of the crime the accused is not entitled to be released though charge-sheet has been submitted.

6] I went through the order passed by the Hon'ble Bombay High Court in Bail Application No. 1039/2018 on 25th July 2018. The application came to be dismissed as withdrawn. The application was not heard on merits. The present application is to be decided on its own merit.

7] My learned predecessor was pleased to reject the bail application by observing, among other things, thus:

“Nature of the offence alleged to have committed by the accused is serious. Evidence collected by the prosecution indicates involvement of the accused in the commission of crime. Evidence also shows, informant sustained injury by the bullet. It also supports pistol was used for firing bullet and it was with present accused. Evidence collected shows, immediate prior to the incident there was altercation between informant and accused. In this background, even though majority of investigation is over and the incriminating articles are already recovered. Considering gravity of the offence and objections raised on behalf of the prosecution, in my opinion, request made by the accused to release him on bail is not acceptable”.

8] It is also seen that application of another accused – Sachin came to be allowed by my same learned predecessor observing that the role of Sachin was only of selling pistol to these accused. Thus, it is seen that this accused cannot claim parity as, his role is much graver than the alleged role of said Sachin.

9] On perusal of the charge-sheet it is seen that there are serious allegations against the accused and there is sufficient material against him. The statements are there which go against him. No doubt, the charge-sheet has been presented. However, the alleged act of the accused firing of Bullet from Pistol at the informant on a trifle reason, wounding him on the arm; and that the informant could be saved, as the Pistol is stated having been snatched by another person, shows that the fear expressed by learned APP about tampering the witnesses is not fanciful.

10] As observed by my learned predecessor in the bail order, mentioned above, and looking to the gravity of offence, it is not the fit case to release the accused on bail though the charge-sheet has been presented. Hence, the following order.

ORDER

The application **Exh.18** is rejected.

Baramati.
Dated : 17.09.2018.

(**S.T. Bhalerao**)
Additional Sessions Judge,
Baramati.

C E R T I F I C A T E

I affirm that the contents of this P.D.F. file judgment are same word for word as per original judgment.

Name of Steno : Mr.Patil
Court Name : Shri. S.T.Bhalerao, District Judge-2
and Addl.Sessions Judge, Baramati.
Date : 17.09.2018
Judgment signed by P.O. On : 17.09.2018
Judgment uploaded on : 18.09.2018