

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.2222 OF 2018

Mohammad Yusuf Mohammad Ibrahim Momin .. Applicant

Vs.

State of Maharashtra

.. Respondent

.....
Mr.Sachin B. Chandan, Advocate for the Applicant.
Mrs.G.P. Mulekar, APP for the Respondent – State.
.....

CORAM : PRAKASH D. NAIK, J.

DATED : SEPTEMBER 19, 2018.

P.C. :

Applicant is seeking bail in C.R. No.I-98 of 2006, registered with Nizampura Police Station, Bhiwandi, District-Thane, for the offences punishable under Sections 436, 353, 332, 336, 341, 143, 147, 148, 149, 427 of Indian Penal Code ("IPC", for short), as well as Sections 3 and 4 of the Damage to Public Property Act and Sections 134 and 135 of Maharashtra (Bombay) Police Act. Applicant is arrested on 14th July, 2018. Investigation is completed and the charge – sheet has been filed.

2 The brief facts of the prosecution case is that on 5th July, 2006, mob of 200 to 250 persons had stopped the vehicle viz.

Bus and asked all the passengers to vacate the said Bus. Thereafter, the said person started pelting stones and caused damage to the said vehicle. The mob also stopped the vehicle of the complainant and asked the passengers to vacate the said vehicle and broke the glass and caused damage to the bus. Complainant was assaulted. The Bus was set on fire. About 52 persons were arrested on different dates. All of them were also produced before the Court and they were remanded to custody from time to time and subsequently granted bail.

3 Applicant was arrested in another case related to the same cause of action registered vide C.R.No.I-96 of 2006. Applicant was granted bail in the said case and charge-sheet has been filed against the applicant.

4 It is the prosecution case that the applicant was not available and Look Out Notice was issued against him in connection with C.R.No.I-98 of 2006, and on account of the issuance of the Look Out Notice, the applicant was arrested at the Airport on 14th July, 2018.

5 Learned counsel for the applicant submitted that the

applicant was available all throughout the period after registration of the present FIR. He was arrested in C.R.No.I-96 of 2006 and was in custody for a period of about 28 days. Thereafter, he was granted bail. He is reporting the Court in connection with the said proceedings, and, the applicant was granted permission by the Court to travel abroad. The permission was availed of by the applicant, and, he returned to India and had been attending the Court proceedings regularly. It is submitted that the applicant was throughout available at his residence. Statement of witness Mubarak Choudhari was recorded after a period of about three months. It is submitted that there is no allegation that the applicant has participated in the incident of 5th July, 2006 in causing damage to the public property or committing any other act. It is submitted that several persons were arrested, and, they were granted bail. Applicant was abroad from 17th June, 2006 to 14th July, 2006.

6 Learned APP submitted that there are about 16 other offences registered against the applicant, which are pending for trial. The statement of witness Mubarak Hussain Choudhari refers to speech delivered by applicant on 16th June, 2006, instigating others. On 4th July, 2006, several persons had attended

meeting and decided to raise voice against construction of police station at the disputed place.

7 Learned APP further submitted that the applicant was not available, and, therefore, Look Out Notice was issued against him. It is submitted that anonymous letter was received that although the accused is implicated as an accused in the present case, he was not arrested, and, therefore, the applicant was arrested on 14th June, 2018.

8 It is, therefore, apparent that no attempts were made on the earlier point of time to arrest the applicant. The connected incidents had culminated in registration of C.R.No. I-96 of 2006. The applicant was arrested immediately in connection with the said offence. He was in custody and subsequently granted bail. Both cases are registered with same police station. The applicant is apparently attending proceedings before trial Court in the said case. The statement of Mubarak Choudhari was recorded after about three months. The incident is of 2006, and, the applicant is arrested after a period of about 12 years. Learned counsel for applicant submitted that, twelve cases registered against the applicant were investigated and "C" Summary has been granted.

Investigation is completed and charge - sheet has been filed. Considering the aforesaid circumstances, case for grant of bail is made out.

8 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.2222 of 2018, is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R.No.I-98 of 2006, registered with Nizampura Police Station, Bhiwandi, District-Thane, on his furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (ii) Applicant shall attend Nizampura Police Station, Bhiwandi, District-Thane once in a Month on first Saturday of the month between 10:00 a.m. to 12:00 noon, till the final disposal of the trial;

- (iii) Applicant shall also attend the trial Court during the hearing of the case, unless exempted by the Court for some reason;
- (iv) Applicant shall not tamper with the evidence;
- (v) Bail Application No.2222 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)