

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

BAIL APPLICATION NO.857 OF 2022

Sagar Chandrakant Ahire ... Applicant
V/s.

The State of Maharashtra ... Respondent

**PRIYA
RAJESH
SOPARKAR**

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**AND
BAIL APPLICATION NO.4096 OF 2021**

Tausif Shabbir Tamboli @ Gharya ... Applicant
V/s.

The State of Maharashtra ... Respondent

Mr.Aniket U. Nikam i/by Mr.Vivek N. Arote, Advocates for the Applicant in BA No.857 of 2022.

Mr.Dinesh Adsule, Advocate for the Applicant in BA No.4096 of 2021.

Mr.A.A.Palkar, APP for the Respondent/State.

**CORAM : VINAY JOSHI, J.
DATE : 26th APRIL, 2022.**

P.C.:-

1. Both applications arises out of Crime No.451 of 2020 registered with Upnagar Police Station, Nashik for the offence punishable under Sections 302, 201, 120-b r/w 34 of the Indian Penal Code and Section 25(3) of the Arms Act.

2. Bail is claimed on the ground of innocence, false implication, inadequacy of evidence as well as on parity. The State resisted bail by pointing towards seriousness of offence.

3. At the instance of report lodged by Irfan Shaikh crime was registered. Deceased Nawaz @ Baba was his nephew. The informant stated that deceased sustained bullet injury who in ailing condition has disclosed the names of assailants. Particularly, it was disclosed that at relevant time co-accused Tipya, Murgiraja and Arjun were

present at the time of occurrence. Out of them Murgiraja fired him from the gun. On the basis of said report crime was registered. There is no eye witness to the occurrence. The prosecution case is solely based on several oral dying declarations made by deceased to various witnesses. With assistance of both sides perused all the dying declarations. Deceased had allegedly made disclosure to witness Vasim Anwar wherein the allegations were only against co-accused Tipya and Murgiraja. Then there is oral dying declarations to witness Zakiya Shaikh and Zahid Shaikh. The deceased stated about the presence of applicant, however no specific role was assigned. The consistency in disclosure was about the co-accused Tipya and Murgiraja only. Besides oral dying declarations the prosecution could not pointed out any other incriminating material against the applicant.

4. This court has released co-accused Arjun Piwal on bail in Criminal Bail Application No.3470 of 2021 vide order dated 14th December, 2021. Perusal of entire material discloses that the applicant does not have any greater role than Arjun Piwal. The prosecution has not shown any distinguishing feature to deny the rule of parity. Though there are statements about motive against applicant, however consistently in all disclosures the allegation was against co-accused Tipya and Murgiraja about firing gunshot. The investigation is complete and charge-sheet has been filed. Considering all above circumstances, applicants further detention is no more required. In view of that, both applicants have made out a case of grant of bail. Hence, following order:-

(a) The Criminal Bail Applications are allowed.

(b) The applicants namely Sagar Chandrakant Ahire (Bail Application No.857 of 2022) and Tausif Shabbir Tamboli @ Gharya (Bail Application No.4096 of 2021)

are released on bail in connection with the Crime No.451 of 2020 registered with Upnagar Police Station, Nashik for the offence punishable under Sections 302, 201, 120-b r/w 34 of the Indian Penal Code and Section 25(3) of the Arms Act, on their furnishing P.R. bond of Rs.50,000/- each with one or two sureties in the like amount.

(c) The applicants/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the prosecution evidence.

(d) The applications stand disposed in above terms.

(VINAY JOSHI, J.)

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