

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL INTERIM APPLICATION NO. 762 OF 2020
IN
CRIMINAL APPEAL NO. 285 OF 2022

Bala @ Takalya Naresh Gangurde : Applicant/Org.Acc.No.4.

Versus

The State of Maharashtra : Respondent

Ms. Payoshi Roy i/b Dr. Yug Mohit Chaudhry for the Applicant.
Mr. A A Palkar, APP, for Respondent/state.

CORAM : S. S. SHINDE,
SARANG V. KOTWAL, JJ
DATE : 22nd MARCH, 2022

P.C.

1 This is an Application filed by the Applicant, who is original accused No.4, for releasing him on bail in C.R. No.172 of 2013 registered at Ghatkopar Police Station.

2 Heard the learned counsel appearing for the Applicant and the learned APP appearing for the Respondent/State.

3 At the outset the learned counsel appearing for the Applicant invites attention of this court to the order dated 8th September 2020 passed by this Court (Coram : Prasanna B. Varale & V. G. Bisht, JJ), and in particular paragraph 5 thereof, and submits that by the said order this Court granted bail to co-accused viz. Naresh @ Rakesh Chandrakant Kotwale, though role

attributed to him is that he gave a blow to the victim by using spanner. It is submitted that as per prosecution case, the present Applicant did not assault the victim but assaulted PW-2 Babu Saylu Jilhapuram. It is submitted that the Applicant is in jail since last 7 years. The learned counsel for the Applicant submits that though the co-accused were granted bail by the Trial Court, the present Applicant did not apply for bail before the Trial Court. It is therefore submitted that the present Applicant is entitled to be released on bail during pendency of Appeal.

4 On the other hand, the learned APP appearing for the Respondent/State invites our attention to the reasoning given by the Trial Court in the impugned judgment, and submits that the Applicant may not be enlarged on bail.

5 We have considered the rival submissions. With the able assistance of the learned counsel appearing for the Applicant and the learned APP appearing for the Respondent/State, we have carefully perused the order dated 8th September 2020 passed by this Court (Coram : Prasanna B. Varale & V. G. Bisht, JJ), and in particular paragraph 5 thereof which reads thus :-

“5 On perusal of the material placed before this court and, more particularly, in view of the observations of the learned Single Judge reflected in the order dated 12th January 2015 in Bail Application No.2076 of 2014, we find considerable merit in the submissions of the learned

counsel. It is also not disputed by the learned APP that the applicant/appellant had misused the liberty granted to him and followed the directions/conditions imposed upon him vide order dated 12th January 2015. It is also not in dispute that the role attributed to the applicant/appellant is of use of a spanner for giving blow to the victim and the fact remains that the death of the victim is a result of a knife injury and that particular weapon was carried by another accused and not by the present applicant/appellant.”

6 Apart from that, prima facie it appears that the Applicant did not assault the victim but assaulted PW-2 Babu Saylu Jilhapuram. In that view of the matter, the Application of the Applicant for bail deserves to be considered. Hence the following order :-

:ORDER:

- 1] Criminal Interim Application No.762 of 2020 is allowed.
- 2] The sentence of the Applicant stands suspended till the hearing and final disposal of the Appeal.
- 3] During the pendency and final disposal of Criminal Appeal No.285 of 2022, the Applicant - Bala @ Takalya Naresh Gangurde is directed to be released on bail on his furnishing P R Bond of Rs.30,000/- (Rupees thirty Thousand only) with one or two sureties in the like amount.
- 4] Criminal Interim Application No.762 of 2002 is disposed of accordingly.

[SARANG V. KOTWAL, J]

[S. S. SHINDE , J]