

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

CRIMINAL BAIL APPLICATION NO. 1107 OF 2022

Nathaji @ Navnath Srimant Kalel ... Applicant
Versus
State Of Maharashtra And Ors. ... Respondents

.....

Mr. Shailesh S. Kharat, Advocate for the Applicant.
Mr. S.R. Agarkar, APP for the Respondent-State.
Mr. Ashish Raghuvanshi, Advocate for Respondent Nos. 2, and 3.

.....

CORAM : PRAKASH D. NAIK, J.
DATE : 12th August 2022.

PER COURT:-

1. The applicant is seeking bail in connection with C.R. No. 380 of 2018 registered with Sinhagad Road Police Station, Pune for the offence punishable under Section 364 r/w Section 34 of the Indian Penal Code, under Section 3(25) of the Arms Act and Section 37 (1) r/w 135 of Mumbai Police Act. The applicant was arrested on 29th August 2018.

2. The case of the prosecution is that the complainant i.e. Respondent No. 2 was married to Respondent No. 3. It was inter-caste marriage. The family of the complainant was

against the said marriage. The brother of the first informant and the applicant (cousin of first informant) had allegedly abducted Respondent No. 3. He was taken in the vehicle. One of the accused was armed with revolver. The victim was threatened and assaulted. He registered FIR on 29th August 2018.

3. The first application for bail preferred by the applicant was rejected vide order dated 27th November 2019. Thereafter, second bail application was preferred before this Court which was allowed to be withdrawn vide order dated 17th August 2021 with directions to the trial Court to make an endeavour to conclude the trial within a period of six months. It was further directed that in the event, the trial is not concluded within stipulated time, the applicant is at liberty to prefer fresh application for bail.

4. Learned Advocate for the applicant, submitted that the trial has not commenced, even the charge is not framed. The applicant is in custody for four years. This Court had granted liberty by order dated 17th August 2021, to prefer fresh

application for bail, in the event, the trial is not concluded within stipulated time. The First Information Report is lodged by Respondent No. 2. Respondent No. 3 is husband of Respondent No. 2. Parties have arrived at amicable settlement. Respondent No. 2 was present in the Court on the previous occasion. The joint affidavit is filed by Respondent Nos. 2 and 3 dated 19th April 2022 stating that the families have settled the issues and there is no objection for granting bail to the applicant. Separate affidavit has been filed by Respondent No. 2 (first informant) stating that she is not in a position to remain present in the Court and she has given no objection for granting bail in the joint affidavit filed by Respondent No. 3. The applicant was granted temporary bail by Sessions Court by order dated 17th May 2019 for one month and again by order dated 11th April 2019 for one month. There was no misuse of bail granted to him.

5. Learned APP submitted that the previous bail application was rejected by this Court. The victim was abducted by the accused. The applicant is cousin of Respondent No. 2.

6. The report of the trial Court was called for with regard to the status of the trial. Report dated 28th July 2022 is

received by this Court. It is stated that on some occasion the Advocates for the accused were absent, the application for bail preferred by the applicant is pending in this Court and charge would be framed after disposal of the application for bail.

7. The fact remains that the charge is not framed. The applicant is in custody from 30th August 2018. The applicant has filed an affidavit cum undertaking to this Court which has been affirmed before the jail authorities where he has been detained. In the said affidavit it is stated that he will not misused the facilities of bail and abide by all the conditions. He would not make any attempt to meet and contact by any means Respondent Nos. 2 and 3. He undertake that he will not visit the house of Respondent Nos. 2 and 3. He will not threaten Respondent No. 2 or any other witnesses. The affidavit is taken on record and marked X for identification. Applicant was granted temporary bail in the past and there was no misuse of facility of bail. Respondent Nos. 2 and 3 filed Affidavit dated 12th April 2022 stating that they have no grievance against applicant and no objection for grant of bail. The Respondent No. 2 filed separate Affidavit dated 19th April 2022. She is taking post pregnancy treatment and not

allowed to travel for long distance. Hence, she cannot remain present in Court. The Advocate for Respondent Nos 2 and 3 submitted that said respondents have no objection for granting bail to applicant. The applicant is cousin of Respondent No. 2. Considering above facts, role of the applicant, bail can be granted to applicant.

ORDER

- (i) Bail Application No.1107 of 2022 is allowed;
- (ii) The applicant is directed to be released on bail in connection with Crime No.380 of 2018 registered with Sinhagad Road Police Station, Pune on executing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;
- (iii) The applicant is permitted to furnish cash bail in the sum of Rs.50,000/- for a period of six weeks in lieu of surety.
- (iv) The applicant shall attend Sinhagad Road Police Station, Pune, once in a week on every Saturday between 11:00 a.m. to 1:00 noon for a period of three months. Thereafter, once in a month of first Saturday between 11:00 a.m. to 1:00 noon till further order;

- (v) The applicant shall not approach Respondent Nos. 2 and 3 and shall not threaten Respondent Nos. 2 and 3 or any other witnesses.
- (vi) In the event of breach of conditions, the prosecution and/or Respondents are at liberty to prefer an application for cancellation of bail.
- (vii) Bail Application stands disposed of accordingly.

Digitally
signed by
YUGANDHARA
SHARAD
PATIL
Date:
2022.08.29
15:29:39
+0530

(PRAKASH D. NAIK, J.)