

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2596 OF 2021

BHARAT KUMAR SARDARAMJI MALI)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Anil Lalla a/w. Mr.Aditya Singh a/w. Ms.Shiwangi Chaurasia
i/b. Lalla & Lalla, Advocate for the Applicant.

Ms.Pallavi Dabholkar, APP for the Respondent – State.

CORAM : V. G. BISHT, J.

RESERVED ON : 10th DECEMBER 2021
PRONOUNCED ON : 5th JANUARY 2022.

PC. :

1 The present application has been moved by the
applicant under Section 439 of the Code of Criminal Procedure in
Crime No.614 of 2017 registered with Police Station Yavat, Pune,
for offences punishable under Section 341, 394, 397 of the
Indian Penal Code (IPC).

AVK

1/5

2 The case of prosecution is that on 11th September 2017 informant was travelling by a car. The prosecution alleges that the informant was intercepted by four persons. One of them assaulted the informant by an iron rod. The other person fired a bullet from his pistol which stuck in the right leg of the informant. It is further alleged that the accused took away informant's car. However, the said car was subsequently traced. The applicant came to be arrested on 24th November 2017. Investigation was completed and charge-sheet came to be filed.

3 Mr. Anil Lalla, learned counsel for the applicant, submits that co-accused Gurunath @ Purannath Dhannath Goswami, who allegedly had assaulted the informant by means of an iron rod, has already been released on bail by this Court (Coram : Prakash D. Naik, J.) on 16th December 2020. Since the role attributed to the applicant is less graver than the said accused, he be necessarily given the benefit of parity. Moreover, since last more than 4 years the applicant is in jail. Investigation is completed. So he be released on bail, urged learned counsel.

4 Mr.Ameet Palkar, learned APP, on the other hand, fairly submits that the ground of parity is applicable, and therefore, an appropriate order may be passed.

5 Perused the investigation papers.

6 It appears that the Test Identification Parade was carried out on 28th November 2017 wherein the present applicant along with other co-accused, namely, Gurunath @ Purannath Dhannath Goswami was duly identified by the informant. It further appears that after the Test Identification Parade, supplementary statement of informant was also recorded wherein he alleged that the applicant had assaulted him by means of hands. Similarly, the informant also stated that he was assaulted by means of an iron rod by co-accused Gurunath @ Purannath Dhannath Goswami.

7 I have already pointed out that the said co-accused has already been admitted on bail by this Court. It is pertinent to

note that the role of applicant vis-a-vis the said co-accused is not that grave as is of latter. Therefore, on this ground alone, he is entitled to be released on bail.

8 Besides, the applicant is in jail for more than four years. The trial is yet to commence. In such circumstances, the applicant deserves to be enlarged on bail.

9 In view of above, I pass the following order :

ORDER

- (i) Applicant – Bharat Kumar Sardaramji Mali shall be released on bail in Crime No.614 of 2017 registered with Police Station Yavat, Pune, on his executing P.R.Bond in the sum of Rs.20,000/- with one or two sureties in like amount.
- (ii) The applicant shall not tamper with prosecution evidence.
- (iii) The applicant shall attend the Court proceedings regularly.

- (iv) Bail before the trial Court.
- (v) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.
- (vi) It is made clear that the observations made herein are prima facie and the trial Court shall decide the case on its own merit, in accordance with law, uninfluenced by the observations made in this order.
- (vii) The application is allowed in the aforesaid terms and stands disposed off accordingly.

(V. G. BISHT, J.)