

VAISHALI
ANIL
TIKAM

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

BAIL APPLICATION NO. 2199 OF 2022

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Sujit Rampal Mishra ... Applicant
Vs
The State of Maharashtra ... Respondents

...
Mr. Subhash Jha a/w. Mr. Siddharth Jha a/w. Mr. Dwivendra
Dubey and Mr. Tushar Bansode for Applicant
Mr. H.J. Dedhia, APP for the State

CORAM : SANDEEP K. SHINDE J.

Reserved on: 11th NOVEMBER, 2022.

Pronounced on: 18th NOVEMBER, 2022

PC. :

1. Heard Mr. Jha, learned counsel for the applicant and
Mr. Dedhia, learned APP for the State.

2. It is second bail application. First application was
rejected on 6th of January, 2020.

3. Though the trial has commenced in July, 2021, till
date, prosecution has examined seven witnesses.

4. Mr. Dedhia , learned APP, contended that in view of
serious accusations made against the applicant, and since trial
has commenced, this Court may not appreciate the prosecution

case but may expedite the trial.

5. Mr. Jha, learned counsel for the Applicant has taken me through the charge-sheet, evidence of eye witness (PW-7) and orders passed by Coordinate Bench, granting bail to the co-accused.

6. Prima facie it, appears from the evidence, that in the scuffle between two groups, the applicant, allegedly inflicted injuries on the person of Nikhil (injured) and Novesh (deceased) with broken piece of glass. Nikhil survived; but Novesh succumbed to puncture wound over the side of the neck near left ear. However, prima facie it appears that, the incident was not premeditated, in the sense, the broken pieces of glass was found lying on the spot of the incident, which was allegedly used by the applicant. Be it noted that while releasing the co-accused on bail, the coordinate Bench has observed that “prima facie fights occurred between the two groups in spur of moment”. In any case, the material also indicates that the applicant had, also suffered 14 injuries; though simple but

allegedly caused with sharp object. In fact, the investigating officer, vide communication dated 19th December, 2017, sought opinion of Medical officer on the aspect, whether injuries suffered by the applicant, were by the by the broken piece of glass. Therefore, prima facie, evidence suggest, the scuffle between the two groups was on spur of moment. That even otherwise, PW-7 in his cross examination would admit that the applicant tried to defend himself from five aggressors. To be precise, PW-7 said, “It is true to say that we five against the Sujit Mishra. It is true to say that Sujit Mishra has tried to defend against we five”. Thus taking overview of the material on record, although the trial has commenced, which is not likely to be complete in the near future, a case is made out for granting bail. Even otherwise, applicant has been incarcerated since October, 2017, having no criminal antecedents. Therefore, in consideration of facts above the applicant is directed to be released on bail subject to following conditions:

ORDER

- (i) The applicant in Crime No. I-523/2017 registered with

Kashimira Police Station, Dist. Thane, shall be released on executing PR bond for the sum of Rs.25,000/- with one or more sureties in like sum;

(ii) The applicant shall attend the concerned police station as and when called;

(iii) The applicant shall furnish his permanent residential address and contact number to the Investigating Officer within seven days from the date of his release on bail;

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(v) The application is accordingly allowed and disposed of.

It is made clear that observations made here-in-above be construed as expression of opinion for the purpose of bail only and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)