

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.454 OF 2023

VIKRAM RAJNIKANT BHOSALE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. S. A. Gaikwad
APP for Respondent : Mr. S. P. Sonpawale
...

CORAM : S. G. MEHARE, J.

DATE : 21.04.2023

PER COURT :

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent State.
2. The applicant is seeking bail in Crime No. 107 of 2018 registered with Kopergaon Police Station, District Ahmednagar, for the offences punishable under Sections 395, 396, 397, 120(B), 75, 412, 414 of the Indian Penal Code, Section 3/25, 6, 4/25 of the Arms Act and with Section 3(1)(i)(ii), 3(2), 3(4) of Maharashtra Control of Organised Crime Act, 1999 (for short "MCOCA").
3. The applicant has been arrested on 6th September 2018. Since then he is languishing in jail. He is claiming bail on the ground that the person who allegedly identified him in the test

identification parade, was not the eye witness. He has also not given description of the applicant in his statement. Test identification parade was held belatedly. Secondly, he has also claimed the bail relying on the view taken by the Hon'ble Supreme Court in ***Shaheen Welfare Association Vs. Union of India and others (1996) 2 SCC 616*** and ***Sanay Chandra Vs. CBI AIR 2012 SC 830***.

4. The learned counsel for the applicant would submit that 32 persons have been arraigned as an accused. Some of them are still absconding. Trial has not yet commenced and not likely to be completed in the future. Liberty of the applicant has been unnecessarily deprived. There are no antecedents to the discredit of the applicant.

5. The learned A.P.P. opposed the application. He would argue that the weapon allegedly used in the crime has been recovered at the instance of the applicant. The CCTV footage is sent to the Regional Forensic Laboratory Santacruz, Mumbai but the report is awaited. The offence is serious. The incident happened in the broad day light. In the dacoity, one person lost his life. The crime was committed with predetermined mind and it was an organized crime. Hence the applicant does not deserve bail.

6. The incident was happened on 19th August 2018 and thereafter crime was registered. The applicant is languishing in jail since September 6, 2018. The charges have not been framed. Considering the progress of the trial, there appears no hope that the trial may commence in near future. The Hon'ble Supreme Court in the case of ***Shaheen Welfare Association Vs. Union of India and others, (1996) 2 SCC 616***, cited (*supra*) has observed that *it was necessary to grant relief to those persons who have been deprived of their personal liberty for a considerable length of time without any prospect of trial being concluded in the near future. Undoubtedly the safety of the community and of the nation needs to be safeguarded looking to the nature of the offence these under trials have been charged with. But the ultimate justification for such deprivation of liberty pending trial can only be their being found guilty of the offences for which they have been charged. If such a finding is not likely to be arrived at within a reasonable time some relief becomes necessary.*

7. In the case of ***Sanjay Chandra Vs. CBI AIR 2012 SC 830*** cited (*supra*), it has been observed that object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a

punishment, unless it can be required to ensure that an accused person will stand his trial when called upon.

8. Similar view has been taken in many cases. It is trite that prolonged custody without trial is ground for granting bail. In this case there are large number of accused and witnesses. Prosecution may not examine all, but examine reasonable number of witnesses. Unless the prosecution is ready with material, framing of charge is also not possible. The prosecution is awaiting C.A. report since 2018. However, within six years the prosecution/investigating officer did not attempt to collect the chemical analyzer's report from the forensic laboratory. The investigating officer is not sure when he would get the report. This is the another circumstance that shows that there is no possibility to conclude the trial in near future. The applicant is a permanent resident of village Burudgaon road, Tambemala, Taluka and District Ahmednagar. He may not be doubted that he cannot attend the trial. In the facts and circumstances of the case, the applicant deserves bail on certain conditions. Hence, the following order :-

ORDER

- (i) The application is allowed.
- (ii) Applicant Vikram Rajnikant Bhosale be released on bail on furnishing P. B. and S.B. of Rs. 50,000/- (Rupees Fifty

Thousand only) with one solvent surety of the like amount, in in crime No. 107 of 2018 registered with police Station Kopargaon, District Ahmednagar for the aforementioned offences, on the following conditions :

- (a) The applicant shall not tamper with the prosecution witnesses.
- (b) He shall attend the trial on each and every date without justifiable reason.
- (c) He shall attend the police station on first Wednesday after every three months between 12.00 noon to 3.00 p.m.
- (d) He shall not leave his village without informing the concerned police station till conclusion of the trial.

(S. G. MEHARE)
JUDGE

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