



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

BAIL APPLICATION NO. 1188 OF 2023

DIPAK BHIMRAO PATIL ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Aniket Ujjwal Nikam a/w Adv. Piyush R. Toshnival i/b
Adv. Amit Icham for the Applicant.
Mr. N. B. Patil, APP for the State.
Rajendra Pandurang Pujari, DyS.P. Officer, Karad (PSI)

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 15, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.
2. This is an application for bail in respect of the offence punishable under Sections 392, 302, 120-B, 201 read with 34 of the Indian Penal Code (hereafter 'IPC' for short), Section 3(25) of the Arms Act and Sections 3(1)(i), 3(1)(ii), 3(2), 3(4), 3(5) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOCA' for short) registered on 09/06/2014 vide C.R. No.196 of 2014 with Karad City Police Station, District Satara.

3. The prosecution case, in brief, is that the 6 accused killed the victim Mayur. The present applicant is accused No.2. He is the main assailant. It is the accusation that the applicant fired at the victim.

4. The learned APP while opposing the application submitted that there 2 eyewitnesses to the incident and there is incriminating material available against the present applicant.

5. Learned counsel for the applicant submitted that the applicant is entitled to enlarged on bail on the ground of loong incarceration as the applicant was arrested on 19/08/2014 and now is in custody for more than 9 years. So far as the trial is concerned, only charges have been framed. According to the learned counsel for the applicant prosecution proposes to examine at least 90 witnesses and there will be more. Learned counsel for the applicant relied upon the decision of the Hon'ble Supreme Court in respect of the co-accused Vaibhav Ramesh Mane who has been enlarged on bail by order dated 04/09/2018 passed in SLP No. 25271 of 2018.

6. However, in view of the specific role assigned to the present applicant, learned APP states that the applicant can't be enlarged on bail only on this ground as the role of the co-accused who has been enlarged on bail by the Hon'ble Supreme Court is completely different from that of the applicant. Learned APP further states that considering the seriousness of the offence the applicant can not be enlarged on bail. My attention is drawn to the rigours of Section 21(4) of the MCOCA. It is further submitted that having regard to the propensity of the applicant to commit bodily offences, the applicant does not deserve any indulgence for enlargement of bail on the ground of long incarceration. It is pointed out that around 4 years back, a fight broke out in the prison where it is the accusation that 6 inmates assaulted another inmate with a bucket, stone, fists and kick-blows. The accusation of the prison fight is against 6 inmates including the present applicant. In my opinion, this by itself is not a factor to deprive the applicant the facility of bail.

7. So far as the criminal antecedents against the

applicant are concerned, a chart is reflected on page 1584 of the paperbook in the affidavit in reply filed by the prosecution. It is shown that 9 offences are pending against the applicant.

8. The applicant is acquitted in 4 cases. The present case is under Section 302 of the IPC. The applicant is alleged to be a gang leader who runs the entire gang. It is the submission of the learned counsel for the applicant that there are no common offences that the applicant shares with any other gang members and the accused. Considering the long period of incarceration of more than 9 years and as there is no possibility of trial concluding anytime soon with around 90 witnesses to be examined, the applicant can be enlarged on bail. However, I propose to impose strict conditions.

9. It is submitted by the learned APP that in respect of those offences where the applicant is acquitted the same was the result of witnesses turning hostile. He submitted that it was obviously because of the threats issued at the instance of the applicant. It is not possible for me to

comment on this issue. To balance the personal liability of the applicant with concern expressed by the learned APP which is in the interest of the society, stringent conditions need to be imposed. I notice that while enlarging co-accused Vaibhav Ramesh Mane on bail, the Hon'ble Supreme Court had imposed a condition that the co-accused shall not enter the State of Maharashtra except for appearing in Court in the present proceedings. Learned counsel for the applicant, on instructions, submitted that now the said condition has been relaxed. However, considering the nature of the accusations against the applicant and the criminal antecedents, I propose to impose the said condition on the present applicant. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Dipak Bhimrao Patil in connection with C.R. No. 196 of 2014 registered with Karad City Police Station shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more sureties in the like amount.

(c) The applicant shall not enter into the State of Maharashtra except for appearing in the trial Court, on the dates fixed by the concerned Court, in the present and other pending Criminal Court proceedings.

(d) On being released on bail, the applicant shall furnish his contact details, residential address and details of nearest police station while staying out of the State of Maharashtra to the trial Court and the Investigating Officer and shall keep him updated, in case there is any change.

(e) While staying outside the State of Maharashtra, the applicant shall report to the police station nearest to his residence, on every first and third Monday of the month between 11.00 a.m. and 1.00 p.m.

(f) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(g) The applicant shall attend all the pending trials regularly.

(h) Any attempt to influence or tamper with the witnesses or breach of any of the conditions will be viewed seriously and may invite the consequence of cancellation of bail.

10. The application is disposed of.

(M. S. KARNIK, J.)