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

BAIL APPLICATION NO.219 OF 2023

UMAR MEHANDI RAZZAK SHAIKH ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Kamlesh N. Gujar for the Applicant.
Ms. Rutuja Ambekar, APP for the State.
API Satyavan Bile, Vashi Police Station, Navi Mumbai.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 31, 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 395, 341, 342, 452, 114, 400, 120B of the Indian Penal Code (hereafter 'IPC' for short), under Sections 3, 25 of Indian Arms Act, under Section 135 of the Maharashtra Police Act and under Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOCA', for short) registered vide C.R. No.I-392 of 2017 with Vashi Police Station, Navi Mumbai.

3. The FIR was registered on 27.10.2017. The applicant is the accused no.11. The applicant was arrested on 16.01.2019. In all there are eleven accused. The investigation is complete and the charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant is in custody for more than four months and seven months. Even the charge has not been framed and the trial is likely to take a long time to conclude. The bail is sought on the ground of parity and long incarceration. Seven accused have been enlarged on bail. The applicant's car was used in the commission of the offence. It is the contention of learned APP that the applicant was present at the time of commission of an offence.

4. The applicant's role is similar and certainly not more than that of co-accused – Fahim Akhtar Abdul Majid Khan who has been enlarged on bail by an order dated 25.11.2021 passed in Bail Application No.343 of 2020 and Firoz Abdul Rehman Shaikh who has been enlarged on bail by an order dated 21.12.2022 passed in Bail Application

No.3282 of 2022. I may refer to the observations made in the order dated 21.12.2022 in respect of co-accused– Firoz Abdul Rehman Shaikh.

“2. The applicant is arraigned as accused in C.R. No. I-392 of 2017 registered with Vashi Police Station for the offences punishable under sections 395, 341, 342, 400, 120-B of the Indian Penal Code read with sections 3 and 25 of the Arms Act and section 135 of the Maharashtra Police Act as well as the provisions of sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999.

3. Learned counsel for the applicant invites my attention to page 1219 of paper-book by which co-accused no. 7-Fahim Akhtar Abdul Majid Khan was released on bail by a detailed order. So far as the present C.R. is concerned, this is the first offence registered against the applicant. From the present applicant, cash of Rs.12,50,000/-, ornaments worth Rs.10,000/- and on other occasion, cash of Rs.5,50,000/- was recovered along with one toy gun. The role of the applicant is absolutely identical with that of co-accused no. 7-Fahim Akhtar Abdul Majid Khan who has been granted bail. The applicant is in custody for more than 5 years. There is no possibility of trial concluding any time soon. The applicant is not a gang-leader. For the reasons mentioned in the order dated 25/11/2021 in Bail Application No. 343 of 2020, even present applicant deserves to be released on bail on the same terms.”

5. Even the present applicant can be enlarged on bail.

Hence, the following order :-

ORDER

(a) The applicant-Umar Mehandi Razzak Shaikh shall be released on bail in connection C.R.No. I-392 of 2017

registered with Vashi Police Station pertaining to Specail Case No. 5 of 2018, on executing P.R. bond in the sum of Rs.20,000/- and furnishing at least one local surety in the like amount;

(b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence;

(c) The applicant shall mark his attendance in the Special Court dealing with MCOC Special Case No. 5 of 2018, once in every month, till framing of the charge.

6. The application is disposed of.

(M. S. KARNIK, J.)