



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

BAIL APPLICATION NO. 535 OF 2023

ALI ABBAS JAFFAR KHAN

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Abhishek Yende a/w Adv. Shubham K. for the
Applicant.

Ms. Rutuja Ambekar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 3, 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 307, 387, 452, 120-B read with
34 of the Indian Penal Code, Sections 25(1)(b)(A), 27(2) of
the Arms Act, Sections 37(1), 135 of the Maharashtra Police
Act and Sections 3(1) (ii), 3(2) and 3(4) of the Maharashtra
Control of Organised Crime Act, 1999, registered on
07/05/2017 vide C.R. No.105 of 2017 with Nalasopara
Police Station.

3. There are in all 5 accused. The applicant is accused No.2. Accused No.5 Suresh Basppa Pujari is the gang leader. It is the prosecution case that on 07/05/2017, while the complainant was working at the cash counter of the Galaxy Hotel, at around 1:00 p.m., two men on a motorcycle came and stopped in front of the hotel. The man sitting in the backseat had covered his face with a handkerchief. It is the further case of the prosecution that the said person walked towards the cash counter and enquired with the complainant regarding his boss (Shashi Anna). The complainant informed him that the said person i.e. his boss was not available as he had gone to his home town. Thereafter, he took out a paper from his pocket and kept it on the counter which had writing as "Gangster Suresh Pujari". While the complainant was reading the piece of paper, accused No.1 took out a gun-like weapon, shot the complainant in the chest and fled the place on the motorcycle.

4. The applicant is now in custody for more than 6 years and 4 months. I am informed that though the trial has

commenced, only 2 witnesses have been examined. The last of such a witness has been examined as far back in the year 2022. There is hardly any progress in the trial. The prosecution proposes to examine 86 witnesses. However, learned APP submitted that not all the witnesses will be examined. It is then submitted by learned APP by inviting my attention to the affidavit in reply filed by the prosecution that there are 7 cases registered against the applicant and the applicant is still in custody in respect of C.R. No. 142 of 2017 registered with M.F.C. Police Station, Kalyan-Thane and C.R. No. 106 of 2017 registered with Hill Line Police Station. Learned APP submitted that there are as many as 20 offences registered against the gang leader. There are two offences registered against the present applicant which are in common with the gang leader and that includes the present C.R.

5. In the facts and circumstances of the present case, considering the role of the applicant and that he has been in custody for more than 6 years and 5 months with no possibility of trial concluding any time soon, the applicant

can be enlarged on bail. Having regard to the nature of the antecedents, some stringent conditions need to be imposed. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Ali Abbas Jaffar Khan in connection with C.R. No. 105 of 2017 registered with Nalasopara Police Station shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more local sureties in the like amount.
- (c) As the applicant is presently in custody in respect of other offences, after enlargement on bail in the other offences, the applicant shall attend the Investigating Officer of Nalasopara police station twice a month, every first and third Monday of the month, between 11.00 a.m. and 3.00 p.m.
- (d) 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.
- (e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter the Mumbai/Mumbai Suburban and Thane District after availing the facility of bail, till the trial concludes.

6. The application is disposed of.

(M. S. KARNIK, J.)