

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1252 OF 2022

Mahendra Jaiprakash Singh ...Applicant
Versus
The State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO.316 OF 2023
IN
CRIMINAL BAIL APPLICATION NO.1252 OF 2022

Javed Rafiq Ansari ...Intervenor

IN THE MATTER BETWEEN:

Mahendra Jaiprakash Singh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Mihir Desai, Senior Advocate a/w Mr. Shailendra Singh,
Mr. Prabhat Dubey, Ms. Aarti Yadav and Ms. Nikita Pandey, for the
Applicant.

Ms. P. P. Shinde, A.P.P for the Respondent – State.

Mr. Kedar Patil a/w Mr. Jitesh Mundhwa, for the Intervener.

PSI – Manesh Sable, Tulini Police Station, District – Palghar, is present.

CORAM : REVATI MOHITE DERE, J.
DATE : 5th SEPTEMBER 2023

P.C. :

1. Heard learned counsel for the parties.

2. This is the second bail application preferred by the applicant, seeking his enlargement on bail in connection with C.R. No.I-380 of 2015 registered with the Tulinj Police Station, District – Palghar for the alleged offences punishable under Sections 307, 324, 120B r/w 34 of the Indian Penal Code; Sections 3, 25 and 27 of the Arms Act; and Sections 3(1)(ii), 3(2) and 3(3) of the Maharashtra Control of Organized Crime Act ('MCOC Act').

3. Perused the papers. Learned senior counsel for the applicant submits that the applicant is in custody since 2015 and that 3 co-accused in the said case have been enlarged on bail. He submits that despite a direction to the trial Court to conclude the case of the applicant, as expeditiously as possible and in any event, within 12 months from the date of receipt of the order dated 16th March 2021, passed in Criminal Bail Application No.2270 of 2019, charge has been framed in the said case only recently, however, no recording of evidence has commenced in the said case.

4. Learned senior counsel for the applicant has tendered the orders dated 8th March 2019 and 3rd March 2021 passed by this Court, enlarging the co-accused – Shailendra Lodha and Vikas Choube on bail. Learned senior counsel submits that even the trial Court has enlarged co-accused – Imran Hussain Khan, a co-conspirator alongwith the applicant on bail vide order dated 17th May 2023.

5. Learned APP as well as the learned counsel for the respondent No.2 do not dispute that the other 3 co-accused in the said case have been enlarged on bail nor do they dispute that not a single witness has been examined, till date.

6. This Court vide order dated 16th March 2021 had rejected the applicant's first bail application on merits. The said order is on page 18 of the application. It is the prosecution case that the first Informant-Faizan Ansari, Javed (injured), Imran Khan (assailant), Vikas Choubey, Shailendra Lodha were friends and running business with each other's help. It appears that subsequently the relations

between them became strained, due to the business rivalry and as such 2 groups were formed i.e. Javed and Faizan on one side and the accused – Imran, Vikas, Shailendra and the applicant on the other. It is alleged by the prosecution that the applicant had motive to kill Javed and pursuant to the same, hatched a conspiracy with the other co-accused. According to the prosecution, the said conspiracy was hatched by the applicant (gang leader of the group), pursuant to which, Imran and Vikas (co-accused) attacked Javed on 11th August 2015. Co-accused – Imran is alleged to have fired at Javed and co-accused – Vikas is alleged to have assaulted Faizan with a bottle.

7. It is pertinent to note that both Shailendra and Vikas have been granted bail by this Court and subsequently Imran was also granted bail by the Sessions Court in May 2023. The applicant is not the assailant but is alleged to have conspired to kill Javed. There is a confessional statement of the applicant and co-accused – Imran, which was recorded under Section 18 of the MCOC Act. The said statement was no doubt subsequently retracted, however, the said confessional

statement *prima facie*, shows the complicity of the applicant, in the attack on Javed.

8. Vide order dated 16th March 2021, the applicant's first bail application was rejected on merits, with a direction to the trial Court to conclude the case, as expeditiously as possible and in any event, within 12 months from the date of receipt of the order. It is only recently that charge came to be framed in the said case. Admittedly, not a single witness has been examined in the said case. The applicant is in custody for the last 8 years and it will take time for conclusion of the trial. As noted above, the other co-accused in the said case have been released on bail.

9. Since there are cases registered against the applicant, it will be necessary to impose some stringent conditions on the applicant, whilst granting bail.

10. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail, on the following terms and conditions:-

ORDER

- (i) The applicant be released on cash bail in the sum of Rs.50,000/- for a period of six weeks;
- (ii) The applicant shall within the said period of six weeks, furnish P.R. Bond in the sum of Rs.50,000/- with one or two local sureties in the like amount;
- (iii) The applicant shall attend the Dahisar Police Station on the first Saturday of every month from 10:00 a.m. to 1:00 p.m. till the conclusion of the trial, unless the date of the Trial Court falls on Saturday;
- (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 applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(vi) The applicant shall not enter the jurisdiction of Palghar and Thane District, till the conclusion of the trial, except for the purpose of attending the trial Court ;

(vii) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(viii) The applicant shall file an undertaking with regard to clauses (ii) to (vii) in the trial Court, within two weeks of his release;

(ix) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the

applicant's bail.

11. The application is allowed in the aforesaid terms and is accordingly disposed of.

12. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

13. In view of the aforesaid, the Interim Application being Interim Application No.316 of 2023, does not survive and the same is also disposed of.

14. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.