



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

BAIL APPLICATION NO. 864 OF 2023

GANESH TEGHBAHADUR GURKHA

..APPLICANT

VS.

STATE OF MAHARASHTRA

..RESPONDENT

Ms. Anjali Awasthi, for the applicant.

Ms. Rutuja Ambekar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 09, 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 325, 304(2) of the Indian Penal Code, 1860 registered on 24/01/2022 vide C.R. No. 46 of 2022 with Powai Police Station.

3. Learned APP opposed the application for bail contending that the offence is very serious and there is an eye-witness to the incident.

4. The applicant was arrested on 27/01/2022. The date of the incident is 23/01/2022. It is the case of prosecution that the

deceased – Chandrashekhar Shetty and eye-witness-Dhansingh were working as security guards. They called the aunt of the applicant and ordered for food on telephone. The deceased used some foul words against the applicant's aunt while ordering the food which was heard by the family members as well as the applicant as speaker of the phone was on. The applicant as well as his aunt came to the spot where the deceased was working. The aunt initially assaulted eye-witness Dhansingh and gave him 3 slaps. So far as the applicant is concerned, it is alleged that the applicant gave fist blows to the deceased and thereafter pushed him. As a result of push, the deceased fell on his head and suffered head injury on the back side.

5. In the facts and circumstances of the case having regard to the manner in which the incident happened, I am inclined to enlarge the applicant on bail. There are no criminal antecedents reported against the applicant. The applicant is in custody since 27/01/2022 for more than 1 year and 8 months. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Ganesh Teghbahadur Gurkha in connection with C.R. No. 46 of 2022 registered with Powai Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.

(d) The applicant shall attend the investigating officer of the Powai police station once in two months commencing from November 2023 on every first Monday of the alternate month between 11.00 a.m. and 1.00 p.m.

(e) 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.

(f) 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.

(i) The applicant shall attend the trial regularly.

(j) The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of.

(M. S. KARNIK, J.)