

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

CRIMINAL BAIL APPLICATION NO. 1074 OF 2023

Ramesh Savlaram Mhatre	..Applicant
Versus	
The State of Maharashtra	..Respondent

**WITH
INTERIM APPLICATION NO. 1411 OF 2023
IN
CRIMINAL BAIL APPLICATION NO. 1074 OF 2023**

Datta Ananta Rane	..Intervenor.
Versus	
The State of Maharashtra	..Respondent

Mr. Vinod Kashid for Applicant.
Smt. Anamika Malhotra, APP for the State/Respondent.
Mr. Sanjay Kulkarni for Intervenor.

CORAM : SARANG V. KOTWAL, J.
DATE : 21 APRIL 2023

PC :

1. The Applicant is seeking his release on bail in connection with C.R.No. I 55 of 2018 registered with Hill Line police station on 03/03/2018. The Applicant had earlier approached this Court on two occasions. On the first occasion, he had filed the Criminal Bail Application No.849 of 2021. It was allowed to be withdrawn

unconditionally vide order dated 05/01/2022. However, in the same order, it was observed that the trial shall be completed expeditiously and as far as possible within six months from the date of that order. The trial was not completed within that period. The Applicant again made an application vide Criminal Bail Application No.2654 of 2022. That application was allowed to be withdrawn vide order dated 06/12/2022. However, importantly, a specific liberty was granted to the Applicant to file a fresh application if the trial was not over within a period of three months from 06/12/2022. The three months period from 06/12/2022 is over and the trial has still not concluded, therefore, the applicant has preferred the present application.

2. In view of the order dated 06/12/2022 and, in particular, taking into account the specific liberty granted to the applicant, I have considered this bail application. In this background, I have considered the long period of custody because the Applicant was arrested on 14/03/2018. I have also taken into account the fact that the trial was not over in spite of the directions given to the Trial Court on the past two occasions. I am

also taking into account the fact that the Applicant was given a specific liberty to approach this Court if the trial was not over within the stipulated period. Besides these aspects, I have also considered the merits of the matter. I have taken into account the Roznama which was produced before me by the Applicant and which is annexed to the intervention application. The Roznama shows that, on some occasions, the Trial Judge was not available. But importantly, on a few occasions the applicant himself was not produced from the Jail for the purpose of trial. Therefore, it cannot be said that, because of fault of the present applicant the Trial could not be concluded within the stipulated period. These factors are definitely relevant for considering grant of bail to the applicant.

3. As far as merit of the matter is concerned, the F.I.R. is lodged by one Datta Rane who was nephew of the deceased Dnyandev. He has described in his F.I.R. dated 03/03/2018 as to how the incident had started in the morning at around 10.30a.m. The applicant was carrying out some construction of his house. Because of the building material, the sewage water was obstructed

and it had accumulated near the house of Dnyandev and his family. There was some quarrel between the family members of Dnyandev and the applicant's family members. The F.I.R. mentions that the applicant told his group that the other family must be finished. After that, the Applicant's group brought weapons. It is alleged that the applicant brought an iron rod. There are specific allegations that, one Pramod gave a blow with an axe on Dnyandev. As far as the applicant is concerned, there are allegations that he had assaulted the first informant on his head and he had also assaulted one Madhuri. Dnyandev was taken to Hospital. He succumbed to his injuries. The F.I.R. was lodged while Dnyandev was still alive. The postmortem notes show that Dnyandev had suffered six injuries. The main injury was on the head. The cause of death was mentioned as head injury. There was one vital wound on the head. There are six injured in the incident namely Datta, Jignu, Gurunath, Nana, Anant and Madhuri. Most of them had suffered simple injuries.

4. Learned counsel for the Applicant submitted that, even as per the allegations, the Applicant had not given any blow to the

deceased. According to the eye witnesses, he had assaulted Datta and Madhuri. Both of them have suffered simple injuries. Madhuri had suffered only blunt trauma. He submitted that the statements of all the eye witnesses are consistent. The actual role of assault to the deceased is not attributed to the present applicant.

5. Learned APP, as well as, learned counsel for the Intervenor i.e. the first informant opposed this application. He submitted that, there are almost six witnesses who have consistently named the present applicant. More importantly, all of them have stated that the applicant had instigated others to inflict murderous assault on the deceased. Therefore, the Applicant does not deserve to be released on bail. They also submitted that, it was not the fault on the part of the prosecution that the trial could not be concluded. On a few occasions, learned Trial Judge was not available. They further submitted that, as of today seven witnesses are examined and around 7 to 8 witnesses are yet to be examined.

6. I have considered these submissions and I have perused the copy of the charge-sheet annexed to this application. There is

no recovery at the instance of the present applicant. The material against him is in the nature of statements given by the eye witnesses, apart from the first informant. Those eye witnesses are Darshana, Pushpa, Bharti, Deepak and Gurunath. Their statements are consistent and are similar to the allegations made in the F.I.R. The injuries suffered by Datta and Madhuri are simple in nature. The allegations are that the applicant had assaulted the two witnesses with an iron rod. Though, there is allegation that the applicant instigated others; it does appear that though the applicant had iron rod in his hand, he had not caused any grievous injury. At this stage, this is an additional factor in his favour. Though, on first two occasions his application was allowed to be withdrawn, in view of the specific liberty granted to the applicant and in view of above discussion the applicant deserves to be released on bail. The trial has reached only up to half stage. It will take some time to reach its final conclusion. Considering these aspects, the applicant deserves to be released on bail.

7. Hence, the following order:

O R D E R

- i) In connection with C.R.No. I 55 of 2018 registered with Hill Line police station, the Applicant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30000/- with one or two sureties in the like amount.
- ii) The Applicant shall not interfere with the evidence of the prosecution.
- iii) The Application is disposed of.
- iv) In view of disposal of main application, the interim application does not survive and it is also disposed of.

(SARANG V. KOTWAL, J.)