



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

BAIL APPLICATION NO.1248 OF 2023

SAURABH SAMBHAJI DOLARE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Shubhangi Parulekar for the applicant.
Ms. Veera Shinde, APP for the State.

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 302, 323, 201, 143, 147, 148, 149, 188, 269 of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOC Act' for short) read with Section 4(25) of the Arms Act, registered on 28/5/2020 vide C.R. No.1794/2020 with Yerwada Police Station, Pune.

3. The applicant is the accused no.16. There are in all 16

accused. Accused No.1 Kunal Kisan Jadhav, accused no.2 Abhishek Narayan Khond, accused no.6 Rajveer Sautara and accused no.12 Ripens Chinappa have been enlarged on bail.

4. In so far as accused no.1 Kunal Jadhav is concerned, while granting bail, the trial has observed thus:-

“2. The prosecution story is that, one Nitin Kasbe was released from jail on temporary bail on 27.05.2020. The Complainant brought him home from jail and thereafter, accompanied him the place to pay respect to Nihal Londhe- deceased brother-in-law, of the complainant. While returning from the said spot at about 10:45 p.m., the Accused along with some 10-12 persons attacked Nitin Kasbe and the Complainant with deadly weapons and charged upon them. In this attack, the assaulters caused death of Nitin Kasbe. The Complainant has seen many of them attacking Nitin Kasbe. The complainant took Nitin Kasbe to Sassoon Hospital, when saw him lying in pool of blood, but the doctors declared him dead on arrival. Hence, the F.I.R. was lodged against the Accused and all other persons on 28.05.2020.

5. Heard the Advocate for the Accused and the A.P.P. Perused the record. Though the Complainant stated the name of the Accused as one of the members of unlawful assembly to attack Nitin Kasbe, he has not stated as to what specific act of assault was done by the Accused. The Complainant stated that, there was old quarrel between Kunal Chandane and Aakash Kanchile. Having grudge of the same, this attack was planned by the

assaulters. The Complainant specifically stated the names of the assaulters who ran behind Nitin Kasbe. The present Accused was not one of them. The A.P.P. in his reply stated that, the name of the present Accused was told by another Accused Aaksah Kanchile.

6. Admittedly, the present Accused was not carrying any weapon nor he has given any weapon injury to the deceased. The Advocate for the Accused has filed the copy of charge-sheet. Thus, substantial investigation is completed. Though the present Accused has not given any fatal blow to the deceased, but he was part of the unlawful assembly and he has gathered with other Accused persons at one place inspite of imposition regulations Maharashtra under Epidemic Disease COVID-19 Regulations Act and Act, Disaster Management Act. This incident occurred in the month of May 2020, when there was strict lockdown declared by the State Government. Inspite of same, the Accused was out of his house, in public place, making unlawful assembly and fear of spreading disease.”

5. Even the co-accused Abhishek Khond has been released on bail by this Court by an order dated 1/2/2023 in Criminal Bail Application No.1504 of 2022. In paragraph 6 it is observed thus:-

“6. It appears that sessions Court has released some of the co-accused. I have perused the statement of eye witnesses. They have not attributed any specific overt act to the applicant. There are no other criminal antecedents.

Though according to the prosecution, the applicant is a member of organized crime syndicate, however, prima-facie, there appears to be no material to that effect. Considering the overall facts and circumstances, I am inclined to release the applicant on bail.”

6. The role of the applicant is similar to that of Kunal and Abhishek who have been enlarged on bail.

7. Though learned APP opposed the application, the present applicant can be enlarged on bail by imposing stringent conditions.

8. The applicant is in custody for more than three years with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. In my opinion, the applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant-Saurabh Sambhaji Dolare in connection with C.R. No.1794/2020 with Yerwada Police Station, Pune, 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 shall attend the Investigating Officer of Yerwada Police Station, Pune, once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m. till conclusion of the trial.

(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.

9. The application is disposed of.

(M. S. KARNIK, J.)