



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

BAIL APPLICATION NO.1238 OF 2023

HARDIK TEJBHADUR SINGH ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Arvind R. Singh i/b Arvind Law House for the applicant.
Mr. N. B. Patil, APP for the State.
API Sohan Peche, Dahisar Police Station, Mumbai.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 6, 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, 326, 324, 504, 201, 120-B read with 34 of the Indian Penal Code, 1860 (for short "IPC"), under Sections 4, 25 of the Arms Act and under Sections 37(1)(A), 135 of the Maharashtra Police Act registered on 10/02/2019 vide C.R. No.65 of 2019 with Kasturba Marg Police Station.

3. There are in all 2 accused. The applicant is the

accused No.2. The applicant was arrested on 14/02/20219 and has been in custody almost for a period of 4 years and 7 months. Accused No.1 has been enlarged on bail by the order of this Court dated 21/12/2022. The said order reads thus:

"1.Heard learned counsel for the parties.

2. This is an application for bail by the applicant- Nagesh Samarbahadur Singh in connection with C.R. No.65 of 2019 dated 10/02/2019 registered with Kasturba Marg Police Station, under Sections 307, 324, 326, 504, 201, 120-B read with Section 34 of the Indian Penal Code, 1860 (hereafter "the IPC", for short).

3. It is alleged that there is some dispute between the applicant and the injured victim over a plot of land where the applicant was having a cowshed. It is claimed by the complainant that the property belongs to him. In the course of some dispute over the property, the assailant i.e. Hardik Tejbahadur Singh @ Sonu and the brother of the applicant- Amit assaulted the victim. The victim suffered severe injuries. The injuries are mentioned in the certificate of Suchak Hospital which is at page 51 of the paper book. It is alleged that under the instructions of the applicant the hard disk of the CCTV camera has been destroyed which were installed around the cowshed.

4. It is alleged that the assailants assaulted the victim all over the body. There is a fracture injury on the right leg. The applicant at the relevant time was in Uttar Pradesh. It is alleged that the entire episode is at the behest of and has been orchestrated by the applicant.

5. Learned APP and learned counsel for the complainant opposed the application. Learned counsel for the complainant contended that the applicant is a criminal and there are criminal antecedents against him. One antecedent is under Section 354 of the IPC.

6. The applicant was initially granted pre-arrest bail and later on the application was rejected. Eventually the applicant was arrested on 31/10/2021. He is in custody for more than 14 months. The allegation is that the entire incident is at the behest of the applicant and orchestrated by him. This is a subject matter of trial. The applicant is not the assailant. There was a dispute between the applicant and the complainant over the plot of land over which the applicant claimed to have a cowshed. The charge-sheet has been filed. The investigation is complete. There are civil proceedings pending between the victim and the applicant. The trial is not likely to commence and conclude any time soon. Considering the role assigned to the applicant, I am inclined to release the applicant on bail but by imposing some stringent conditions. Hence, the following order :-

:ORDER:

(a) Application is allowed.

(b) Applicant-Nagesh Samarbhadur Singh shall be released on bail in connection with C.R. No.65 of 2019 registered with Katurba Marg Police Station, on furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

(c) 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.

(d) 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.

(e) The applicant shall not enter the areas of Greater Mumbai and Thane district on being released on bail except for attending the dates fixed by the trial Court or as may be directed by the Civil Court in the pending proceedings.

(f) The applicant shall report to the nearest police station close to his residence while staying outside Greater Mumbai and Thane district once in a week i.e. every Sunday between 10.00 a.m. and 12.00 p.m. The details be furnished to the Investigating Officer.

(g) Liberty to apply for modification of the conditions after six months from today.

7. The Bail Application is disposed of.

8. The Interim Application is also disposed of."

4. Learned APP while opposing the application contends that there are criminal antecedents against the applicant. There is one C.R. of the year 2015 for an offence punishable under Section 302 of the IPC, registered against the applicant. The applicant was granted bail. The trial in the said C.R. is ongoing. However, having regard to the fact

that the applicant is incarcerated for 4 years and 7 months in the present C.R., I feel the criminal antecedent should not be a factor coming in the way of the applicant granting the facility of bail.

5. The investigation is complete. The charge-sheet has been filed. Considering the nature of the accusation and the fact that the applicant has already undergone incarceration of 4 years and 7 months in the present C.R. with no possibility of the trial concluding any time soon, I am inclined to enlarge the applicant on bail by imposing certain conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Hardik Tejbhadur Singh in connection with C.R. No. 65 of 2019 registered with Kasturba Marg Police Station shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more solvent sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Kasturba Marg police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 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) The applicant shall not leave Mumbai District/ Mumbai Suburban District after being released on bail, till the conclusion of the trial, without intimation to the Investigating Officer or without prior permission of the trial Court.

(g) The applicant shall attend the trial regularly.

(h) The applicant shall surrender his passport, if any, to the Investigating Officer.

6. The application is disposed of.

(M. S. KARNIK, J.)