

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1490 OF 2022**

Rushikesh Paasi

....Applicant

Versus

The State of Maharashtra

...Respondent

Mr. D. S. Mhaispurkar along with Mr. H. S. Pawaskar i/b. Mr. Sameer M. Mangaonkar, Advocate for the Applicant.
Ms. Anamika Malhotra, APP for Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 14th SEPTEMBER, 2023.

P.C. :

1. By this application, applicant is seeking bail in C. R. No.390 of 2020 registered with Santacruz Police Station, Mumbai, for offences punishable under Sections 302 and 342 read with 34 of Indian Penal Code, 1860.

2. My attention is invited to order dated 27th January 2023 passed by this Court (Coram : M. S. Karnik, J.) in Bail Application No. 3891 of 2022 and order dated 7th February 2021 passed by this Court (Coram : M. S. Karnik, J.) in Bail Application No.3005 of 2021

in respect of co-accused. The order dated 7th February, 2023 reads as under :

- "1. *Heard learned counsel for the applicant.*
2. *This is an application for bail filed by the applicant-Pintu Kumar Kameshwar Sah in respect of C.R. No. 390 of 2020 dated 26/12/2020 registered with Santacruz Police Station, for the offence punishable under sections 302, 342 read with Section 34 of the Indian Penal Code, 1860 ('IPC' for short).*
3. *My attention is invited to the order dated 27/01/2023 passed by this Court in Bail Application No.3891 of 2022 in respect of the co-accused. The order reads thus:*
 - "1. Heard learned counsel for the applicant and learned APP*
 - 2. This is an application for bail in respect of C.R.No. 390 of 2020 dated 26/12/2020 registered with Santacruz Police Station for the offence punishable under sections 302, 342, 34 of the Indian Penal Code, 1860.*
 - 3. The applicant was arrested on 27/12/2020. The earlier application for bail filed by the applicant came to be withdrawn on 23/08/2022. Learned counsel for the applicant submitted that since then there has been no progress in the trial. The trial is likely to take long time to conclude. Learned counsel further submitted that there are no criminal antecedents recorded against the applicant.*
 - 4. The applicant is a labourer. The incident took place on 25/12/2020 at 4.30 a.m. in the morning when all the workers were fast asleep. From the materials, it appears that the deceased entered the place where the workers were sleeping and he tried to commit theft of the mobile phones. The workers caught hold of the applicant and assaulted him. In the statement of the witness, the applicant along with the co-accused and 2 juveniles in conflict with law assaulted the deceased, who named the applicant's name. The statement reveals that there were several workers along with the present applicant who assaulted the deceased. The deceased suffered injuries on his legs. He was assaulted with an iron pipe and the branches of a tree. There is no material to show that the applicant assaulted the deceased on the vital part of the body. The cause of the death is hemorrhage and shock due to multiple hard and blunt injuries. The deceased succumbed to the multiple injuries.*
 - 5. It is pertinent to note that one Aakash Madan Sah who filed a bail application No. 1964 of 2021 in this Court was released on bail. No doubt, the role of Akash is not similar to that of the applicant. However, there was a witness who stated that Akash Madan Sah*

assaulted the deceased when he was leaving the garden. The incident is video-graphed, the same was sent for analysis. The report is awaited. The applicant is in custody since 27/12/2020. The investigation is over. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The trial will take long time to conclude. Even the charge has not been framed. The applicant is not the only one who assaulted the applicant. This is a case of mob lynching. Looking at the nature of accusations, the applicant can be released on bail. Hence, the following order.

ORDER

(a) The application is allowed.

(b) The applicant - Hayat Abdul Latif Ali in connection with C.R.No. 390 of 2020 dated 26/12/2020 registered with Santacruz Police Station shall be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more local sureties in the like amount.

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant should not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer of the concerned Police Station and shall keep him updated, if there is any change.

(f) The applicant shall report to the investigating officer once in a month on every Monday between 11.00 a.m. and 1.00 p.m. and thereafter as and when called.

6. The application is disposed of.”

4. The role of the applicant is similar to the co-accused who has been released on bail. On parity, even the present applicant-Pintu Kumar Kameshwar Sah deserves to be released on bail. The charge -sheet has been filed and the investigation is complete. There are no criminal antecedents reported against the applicant. The trial will take long time to conclude.

5. Hence, the following order :-

ORDER

(a) The application is allowed;

(b) The applicant -Pintu Kumar Kameshwar Sah in connection with C.R.No. 390 of 2020 dated 26/12/2020 registered with Santacruz Police Station shall be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more local sureties in the like amount;

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant should not tamper with evidence;

- (d) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer of the concerned Police Station and shall keep him updated, if there is any change;*
- (e) The applicant shall report to the investigating officer once in a month on every Monday between 11.00 a.m. and 1.00 p.m. and thereafter as and when called.*
6. *The bail application is disposed of."*

3. Learned counsel for the applicant submitted that role of the applicant in the present case is similar to the co-accused who have been released on bail. Hence, on parity, the present applicant deserves to be released on bail. Charge-sheet has been filed and investigation is completed.

4. Learned APP submitted that appropriate order be passed.

5. I have heard both learned counsel. As co-accused have been released on bail and role attributed to the present applicant is similar to co-accused who have been released of bail, on parity, even the present applicant deserves to be released on bail.

6. In view of above, I pass following order :

ORDER

- (i) Applicant be enlarged on bail in C. R. No.390 of 2020 registered with Santacruz Police Station, Mumbai, on executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
- (iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

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

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

(SHIVKUMAR DIGE, J.)