



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

BAIL APPLICATION NO. 1544 OF 2023

BHIMRAO NAMDEV TALEKAR

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Dinesh Bhosale for the Applicant.

Mr. N. B. Patil, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 15, 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, 504, 141, 143, 147, 148 of the Indian Penal Code read with Sections 4, 25 of the Arms Act, 1959, registered vide First Information Report (FIR) No.337/2022 with Karmala Police Station, Solapur Rural.

3. The FIR is registered on 27/04/2022. By order dated 21/08/2023 in Bail Application No. 1545 of 2023, the co-accused Dattatraya Bhimrao Talekar has been enlarged on

bail by this Court. For ease of reference, this order is reproduced, which reads thus :

"3. There are in all five accused. The applicant is the accused no. 3. The date of the incident is 27/4/2022. The FIR is registered on the same day. The applicant was arrested on 28/4/2022..

4. My attention is invited to the order dated 28/3/2023 passed by this Court while releasing the accused no.2 and accused no.4 on bail. The order dated 28/3/2023 reads thus:-

"2. This is an application under Section 439 Cr.P.C. filed by the aforesaid Applicants, who is facing trial in Sessions Case No. 184 of 2022 pending before the Sessions Court. The said case arises from C.R. No. 337 of 2022 registered with Karmala Police Station, Solapur, for offences under Section 141, 143, 147, 148, 302 and 504 of the Indian Penal Code.

3. Heard learned Counsel for the Applicants and learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties

4. The aforesaid crime was registered pursuant to the FIR lodged by Sudhir Arjun Talekar. A perusal of the FIR reveals that on 27th April, 2022 there was an altercation between the co-accused Bhimrao Talekar and Amol, son of the Complainant over damage caused to a wooden plank. The family members of the Applicant came to the place of incident. It is alleged that Bhimrao Talekar threw Amol on the ground and sat on his chest, Mangal Talekar caught hold of his hands. In the meantime, Amol Dattatraya Talekar went to his house and came with a knife and inflicted injury on Amol.

5. The material on record prima facie indicates that the fatal injury was inflicted by the co-accused Amol Dattatraya Talekar. The only role attributed to the Applicant No.1 is that she had held the hands of the deceased even before the co-accused Amol Talekar had gone to his house to bring the weapon. There is

no prima facie material on record to indicate that she had knowledge that the co-accused Amol Talekar would come with a sharp weapon and inflict injuries on the deceased Amol. So far as Applicant No.2 is concerned, no specific role is attributed to her. Considering the nature of accusation against these two Applicants, in my considered view, this would be a fit case to exercise discretion under Section 439 of Cr.P.C. Moreover, it is stated that the charge is not yet framed. Considering the large pendency of cases, the trial is not likely to commence in the immediate future. In view of the above facts and circumstances, the Application is allowed on the following terms and conditions."

5. Learned APP opposed the application contending that so far as accused no.2 and 4 who were granted bail, are concerned, they are women.

6. So far as accused no.4 is concerned, there is no role attributed to her.

7. I have carefully perused the order dated 28/3/2023. The accused no.2 is assigned the specific role of holding the hand of the deceased has been granted bail and not on the consideration that she is a woman. Moreover, this Court expressed that considering the large pendency of cases, the trial is not likely to commence in the immediate future.

8. The role assigned to the present applicant is that he held legs of the deceased. In my opinion, this is a case where the allegations against the applicant are similar to the one levelled against the accused no.2 who has been released on bail. The investigation is complete. The charge-sheet has been filed. This Court has already recorded in the case of the co-accused that the trial is not likely to commence in the immediate future. I am inclined to release the applicant on bail by imposing stringent conditions."

4. So far as the present applicant is concerned, learned APP submitted that the entire episode is triggered because

of the present applicant. It is submitted that there was a previous rivalry, unfortunately over a very frivolous issue the accused assaulted the victim. Learned APP submitted that the applicant sat on the chest of the deceased.

5. The main assailant is accused No.5 who is the son of accused No.3 - Dattatraya Bhimrao Talekar and grandson of the present applicant. The applicant is 78 years of age and is now in custody for more than 1 year and 4 months. There are no criminal antecedents reported against the present applicant. The investigation is complete and the charge-sheet has been filed. There does not appear to be any possibility of applicant absconding. Looking at the age of the applicant, his role and as the co-accused are enlarged on bail, the applicant can be enlarged on bail. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant- Bhimrao Namdev Talekar in connection with C.R. No. 337 of 2022 registered with Karmala 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 shall attend the Investigating Officer of Karmala 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 stay in Namu Damu Vasti, Kem, Taluka- Karmala after being released on bail, till further orders of the trial Court.

6. The application is disposed of.

(M. S. KARNIK, J.)