

PMB

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

BAIL APPLICATION NO.1879 OF 2022

RAJU MANIKA YADAV

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Raviraj R. Paramane a/w Mr. Omkar Gharat for
applicant.

Mr. S. V. Gavand, APP for State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 2, 2023.

P.C. :

1. Heard learned counsel for the applicant and learned
APP for the State.

2. This is an application for bail in connection with C.R.
No.I-336 of 2016 dated 19/07/2016 registered with Narpoli
Police Station, Thane for the offence punishable under
Sections 302, 143, 147, 148, 149 of the Indian Penal Code,
1860 ("IPC", for short) read with Sections 37(1)(A) and 135
of Maharashtra Police Act.

3. An earlier application for bail filed by the applicant was
rejected on 09/03/2018 by the Sessions Court. The order
dated 09/03/2018 reads thus :-

": ORDER BELOW EXH.26 :

01] The accused – Raju Manika Yadav is chargesheeted for offence under Secs. 302, 143, 147, 148 of Indian Penal Code and S. 37(1)(A), 135 of Maharashtra Police Act.

02] I.O. filed say Exh.27 and strongly opposed the application.

03] I have heard Ld. Advocate for accused and Ld. APP.

04] Ld. Advocate for accused submitted that the deceased and the present accused had a partnership. The person alleged to be an eye witness is also their partner. Witnesses Pankaj and Mithun made different statements. They contradict one another. It is strongly contended that P.M. notes show that food was digested but the witness says that the deceased had taken meal just before the incident. It is strongly contended that why complaint was given at 4.20 a.m. Chopper is not seized from the present accused. The complainant himself is a man having criminal background. The present accused has no antecedent.

05] Ld. A.P.P. submitted that the weapons are seized from the present accused.

06] I have perused charge-sheet. Informant, deceased and accused Raju had a dispute over supply of water to powerloom. They filed complained against one another. A criminal background of informant is not material to assess the involvement of present accused in the crime. There is seizure of chopper from the present accused. Some immaterial points in the statement of Pankaj and Mithun are pointed out. They are not material witnesses. The digested food shown in the P.M. Notes could not be assessed at this stage. There is direct ocular evidence against the

present accused. Hence, I do not find it just to enlarge him on bail. Hence, following order :

: ORDER :

Application is rejected."

4. Thereafter, an application for bail was filed in this Court being Criminal Bail Application No.1957 of 2018. By an order dated 13/06/2019, this Court passed the following order :-

"1. At the outset, learned APP states on instructions, that the trial has commenced and till date 2 witnesses have been examined in the present case and that the prosecution intends to examine approximately 12 more witnesses. He further assures that all the said witnesses will be produced by the prosecution on the dates given by the trial Court. He states that the trial can be expedited and can be made time bound.

2. Since the trial has commenced and 2 witnesses have already been examined, it would not be appropriate to consider the application of the applicant. However, the trial of the applicant is expedited. The learned Judge to conclude the trial as expeditiously as possible and preferably within 9 months from the date of receipt of this order. If, for no fault of the applicant, the trial does not conclude within the said period, the applicant is at liberty to file a fresh application, which will be considered on its own merits.

3. It is made clear, that this application has not been heard on merits.

4. The Application is accordingly disposed of on the aforesaid terms."

5. The trial could not be concluded and by an order dated 15/02/2022 a further period of three months time was granted to conclude the trial.

6. The trial is yet to be concluded. Learned counsel for the applicant submitted that one eye witness was examined and he has turned hostile. The other eye witness could not be examined as he is said to be absconding. It is submitted that this eye witness is wanted in a case registered under the provisions of the Maharashtra Control of Organised Crime Act, 1999. The trial could not be completed within the time stipulated by this Court and even within the extended time granted. One of the witness has turned hostile. The applicant is in custody for more than 6 years. The applicant no doubt is the main assailant and the role attributed to him is serious. However, a balance has to be struck between the gravity of the offence and the long incarceration that the applicant has to undergo pending trial. As one of the eye witness has already been examined, considering the long incarceration of the applicant, in my opinion, the applicant deserves to be released on bail, as

even the trial could not be completed within the stipulated time and within extended time granted thereafter. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Raju Manika Yadav in connection with C.R. No.I-336 of 2016 registered with Narpoli Police Station, Thane, 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 regularly attend the trial on the dates fixed.
- (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.

7. The Bail Application is disposed of.

(M. S. KARNIK, J.)