

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

BAIL APPLICATION NO.1785 OF 2023

Shivaji Sitaram Bhoir	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Kabul Singh Labana, for the Applicant.

Ms. P. P. Shinde, A.P.P for the Respondent-State.

PSI – N. S. Landge, Khadakpada Police Station, Kalyan, Thane is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 15th DECEMBER, 2023

ORAL ORDER:

1. Heard learned counsel for the parties.
2. This is the third bail application preferred by the applicant, seeking his enlargement on bail in connection with C.R. No. 1-81 of 2017 registered with the Khadakpada Police Station, Kalyan, Thane, for the alleged offences punishable under Sections 307, 324, 143, 147,

148, 149 of the Indian Penal Code; under Sections 4, 27 of the Maharashtra Police Act.

3. The first and the second bail application of the applicant were rejected on merits in the year 2019 and 2021 respectively.

4. Learned counsel for the applicant states that when the first bail application was filed, in addition to the aforesaid Sections, Sections 3(1)(ii) 3(2), 3(4) of the Maharashtra Control of Organized Crime Act (MCOCA), were also applied to the case. He states that thereafter, vide order dated 23rd February 2021, MCOCA was dropped in the said case as against the applicant and all the other accused and as such the bar under MCOCA will not apply. He submitted that the applicant is in custody for about 7 years and till date the trial has not commenced.

5. Perused the papers. According to the prosecution, the incident took place on 8th March 2017 at about 9:00 p.m. in village

Ambivali. According to the complainant, the applicant along with other co-accused came to the spot, armed with weapons; that the applicant was armed with a sword and the other co-accused were armed with swords, sickles and sticks. It is alleged that the complainant – Sandip Patil (injured) was assaulted by the applicant and others with weapons and with fist and kick blows. According to the complainant, when he went to save his cousin – Roshan, the applicant assaulted him with a sword on his hand and also Roshan. The injury certificate shows that the complainant has sustained two incised injuries; one on the left forearm and one at left clavicular region and Roshan had sustained 6 injuries.

6. Learned APP states that the applicant has 15 cases registered as against him with different police stations.

7. Learned counsel for the applicant, on instructions of the applicant, states that the applicant will not enter Thane District, till the conclusion of the trial, except for the purpose of attending the trial

Court. Statement accepted.

8. When the first bail application of the applicant was rejected on merits in 2019, MCOCA was invoked qua the applicant. It is not in dispute that the MCOCA has been dropped against the applicant as well as other co-accused in the said case and as such the bar under MCOCA, to grant of bail will not apply. As far as the present case is concerned, it is not in dispute, that till date, the trial has not commenced. The case is under Section 307 of the Indian Penal Code.

9. Considering the long incarceration of the applicant and the prospect of the trial not concluding in the immediate near future, the application is allowed and the applicant is enlarged on bail, on the following terms and conditions:-

ORDER

- (i) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with two local sureties in the like

amount;

(ii) The applicant shall attend the Khadakpada Police Station, on the first Saturday of every month from 10:00 a.m. to 1:00 p.m. till the conclusion of the trial;

(iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant shall not enter the Thane District, till the conclusion of the trial, except for the purpose of attending the

trial Court ;

(vi) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

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

11. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.