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

BAIL APPLICATION NO.2202/2022

RAHUL PANDHARI KALEKAR

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Kaushik Mhatre i/b. K. M. Legal Services for the
applicant.

Mr. S. H. Yadav, APP for State.

PSI Savaji T. S., Virar Police Station.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 13, 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 Section 302 read with 34 of the Indian
Penal Code (hereafter 'IPC' for short) registered vide First
Information Report (FIR) No.I-775/2021 with Virar Police
Station.

3. By an order dated December 20, 2022 passed in
B.A.No.2122/2022, co-accused Prakash Hansraj Rathod was
granted bail. The order reads thus: -

"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 Section 302 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered vide First Information Report (FIR) No.I775/2021 with Virar Police Station.

3. The date of the incident is September 6, 2021. The incident happened on the intervening night of September 5, 2021 and September 6, 2021, at around 3.00 a.m. It is alleged that around 14 to 15 persons committed a deadly assault on the deceased Nishant Kadam. A statement of the eye witness was recorded on September 12, 2021. The eye witness has named the assailants and specified their roles. So far as the present applicant is concerned, the eye witness does not name him. There is a recovery of the motorcycle and clothes at the instance of the applicant. The clothes are not blood stained. It is alleged that one Akshay Shetty stabbed Nishant in his stomach with a knife. One Guddu gave a blow with a iron rod on Nishant's head. One Shabaj assaulted Nishant with a wooden stick on his head. The other assailants were assaulting Nishant with fists and kicks blows.

4. There are no criminal antecedents reported against the applicant. The applicant is in custody since September 8, 2021, that is, almost for a period of one year and three months. Considering the nature of the allegations and the materials against the applicant collected during the investigation, *prima facie*, it cannot be said that they are incriminating in nature. Hence the following order.

O R D E R

(a) The application is allowed.

(b) The applicant-Prakash Hansraj Rathod in connection with FIR No.I775/2021 registered with Virar 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 report to the Investigating Officer of the concerned police station once in a month.

(d) The applicant shall not enter the area of Virar except for the purpose of attending the trial and the Investigating Officer.

(e) 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.

(f) 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.

5. The application is disposed of.”

4. Learned APP opposed the application.

5. So far as the present applicant is concerned, no role has been assigned to the applicant. It is the allegation that he was present along with other accused at the time of the incident. The role of the applicant is similar to that of the co-accused Prakash Hansraj Rathod who has been granted bail. From the applicant what recovered is Scooty which was alleged to be used at the time of the commission of the offence. There are no criminal antecedents reported against the applicant. The chargesheet is filed and investigation complete. The applicant is in custody since January 19, 2022 i.e. almost for a period of one year. The trial is likely to take a long time to conclude. The applicant, therefore, can be released on bail. Hence the following order.

ORDER

- (a) The application is allowed.
- (b) The applicant-Rahul Pandhari Kalekar in connection with FIR No.I-775/2021 registered with Virar 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 report to the Investigating Officer of the concerned 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 enter the area of Virar except for the purpose of attending the trial and the Investigating Officer.
- (e) 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.
- (f) 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.

6. The application is disposed of.

(M. S. KARNIK, J.)