



Diksha Rane

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

BAIL APPLICATION NO.1774 OF 2023

RISHIKESH KUMAR GAUTAM AND ANR. ..APPLICANTS

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Anand V. Upadhyay a/w. Adv. Roli Singh for the Applicants.

Mr. P. H. Gaikwad, APP for the State.

PI Suresh Mane, Azad Maidan Police Station.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 19, 2023

P.C. :

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

2. This is an application for bail in respect of the offence punishable under Sections 304, 325, 338, 323 read with Section 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 31/3/2022 vide C.R. No.95/2022 with Azad Maidan Police Station.

3. The case of the prosecution is that in the intervening night between 30/3/2023 and 31/3/2022, the applicants who are the two accused allegedly pushed a road side drug addict outside their work place (scrap shop). The victim was not known to the applicants. The incident happened around

1.20 a.m.

4. The case is based on the circumstantial evidence. The material against the applicants is in the form of C.C.T.V. footage. *Prima facie*, upon going through the transcripts of the C. C. T.V. footage placed on record, it appears that the victim approached the accused persons whereafter the victim was pushed by the accused persons which led to his fall resulting in his suffering a head injury. The victim was taken to the hospital.

5. The applicants were granted bail on 1/4/2022. But later on, on 5/4/2022, Section 304 of the IPC was added. There is no motive alleged. The applicants were arrested on 10/5/2023. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicants. The trial is likely to take a long time to conclude. Further custody only will be by way of a pre-trial punishment in the facts and circumstance of the case. The applicants will face the consequences post-trial if found guilty. The applicants do not appear to be a flight risk. In the facts and circumstances of the present case, the applicants can be enlarged on bail by imposing some

conditions.

6. Learned APP opposed the application for bail. Learned APP submitted that the applicants are from Uttar Pradesh and therefore, there is likelihood of the applicants' absconding. This apprehension can be taken care by imposing some conditions on the applicants. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicants- (1) Rishikesh Kumar Gautam and (2) Suresh Kumar Gautam, in connection with C.R. No.95/2022 registered with Azad Maidan Police Station, shall be released on bail on their furnishing P.R. Bonds of Rs.25,000/- each with one or more sureties in the like amount.

(c) The applicants are permitted to furnish cash bail surety in the sum of Rs. 25,000/- each for a period of 6 weeks in lieu of sureties.

(d) The applicants shall attend the Investigating Officer of Azad Maidan police station once in three months on first Monday of the month between 11:00 a.m. to 1:00 p.m. commencing December 2023, till further orders;

(e) The applicants 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 applicants shall not tamper with evidence.

(f) On being released on bail, the applicants shall furnish their contact numbers and residential addresses to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicants shall attend the trial regularly. The applicants shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicants shall surrender their passports, if any, to the investigating officer.

7. The application is disposed of.

(M. S. KARNIK, J.)