



Diksha Rane

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

BAIL APPLICATION NO.1737/2023

SANDIP SOPAN PACHPIND ..APPLICANT
VS.
THE STATE OF MAHARASHTRA & ANR. ..RESPONDENTS

**WITH
INTERIM APPLICATION NO.3203/2023
IN
BAIL APPLICATION NO.1737/2023**

SANDEEP BALASAHEB SHELKE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Senior Advocate Manoj Mohite a/w. Adv. Shailesh Chavan
and Adv. Priyanka Chavan for the applicant.
Ms. Veera Shinde, APP for the State.
Adv. Ashwin Shete a/w. Adv. Santosh Avhad i/b. Jayakar &
Partners for original complainant/intervener.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 3, 2023.

P.C. :

- 1.** Heard learned senior counsel for the applicant, learned APP for the State and learned counsel for the original complainant.
- 2.** This is an application for bail in respect of the offence punishable under Sections 302, 243, 147, 148, 149, 395,

120-B of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 3, 4 read with Sections 25 and 27 of the Arms Act read with Sections 3(1)(i), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOCA', for short) registered on 16/10/2016 vide C.R. No.332/2016 with Talegaon Dabhade Police Station.

3. The prosecution case in brief is that the complainant who was the Ex-President of Talegaon Dabhade Municipal Council, was shot and assaulted in broad-day light by the accused persons who are twenty-two in number. The applicant is the accused no.3. A specific role of the assault by wooden log is attributed to the present applicant. The complainant suffered twenty-one injuries. There was a gun shot injury as well which was attributed to the accused nos.1 and 11. The complainant was brutally assaulted.

4. The accused no.2 who was armed with 'koyta' has been enlarged on bail by the Hon'ble Supreme Court by an order dated 16/5/2023 on the ground of long incarceration. The order reads thus:-

"Leave granted.

We have heard Mr. Siddhartha Dave, learned Senior

Counsel for the appellant, Mr. Sandeep Sudhakar Deshmukh, learned counsel for the *de facto* complainant and learned standing counsel for the State of Maharashtra.

The appellant was implicated in FIR No. 332/2016, dated 16.10.2016, registered at Police Station Talegaon Dabhade, District Pune, under Sections 302, 395, 120-B, 201, 143, 147, 148, 149 of the Indian Penal Code, 1860, Sections 3, 4/25, 27 of the Arms Act, Sing and Section 3(1)(i) (ii) & 3(4) of the Maharashtra Control of Organised Crimes Act, 1999. The appellant was arrested on 17.10.2016. He is in custody for the past 6% years. Though the final report has been filed in 2017, it is claimed that charges have not been framed so far. But this statement is disputed by the respondents. Therefore, we will keep this aspect aside and look at the case from another angle.

Though Mr. Deshmukh contended that the case was one of broad day light murder of the elected Municipal Chairman and that the Life of the complainant will be under threat if the appellant is released on bail, we do not think that the same can be a ground for justifying the judicial custody of a person endlessly as undertrial prisoner. It is true that the appellant agreed before the High Court that the trial could be completed in six months. But it is practically not possible for the trial court to complete the trial on account of the fact that there are 145 witnesses. It is the statement

of Mr. Deshmukh, learned counsel for the *de facto* complainant that all the 20 accused are playing hide and seek, even before the commencement of the trial. But the same argument will cut on both sides. Therefore, it is only a hope that the trial could be completed within six months.

On the apprehension that the complainant may face danger, we can always incorporate adequate safeguards.

Therefore, the appeal is allowed and the appellant is directed to be released on bail subject to such conditions as may be Imposed by the trial court. The trial court shall impose as one of the conditions that the appellant shall not enter the district Pune, except on the dates on which he is expected to appear for trial.

Pending application(s), if any, shall stand disposed of.”

The role of the present applicant is surely not more than that of the accused no.2 – Shankar @ Bunty Ramchandra Dabhade who has been enlarged on bail. The accused no.2 – Shankar @ Bunty Ramchandra Dabhade is said to be the gang leader.

5. Likewise, this Court has enlarged the accused no.17 – Ajay Rajaram Hinge who was also assigned a specific role of assault with a ‘koyta’. The said order is dated 1/9/2023 in Criminal Bail Application No.1738/2023.

6. Learned APP as well as learned counsel for the original complainant vehemently opposed the application. It is their contention that that the offence is committed in broad-day light in a very brutal manner. It is pointed out that in the year 2013, there was an attempt made to assault the complainant primarily for extortion of money. A case under Section 307 of the IPC was registered against the accused and even the present applicant was one of the accused therein. It is submitted that as a result enlarging some of the accused on bail, the witnesses are fearing for their safety as according to them the said gang is now resurrecting itself for committing further offences. No doubt, there is some substance in the apprehension of learned counsel for the original complainant as the witnesses need to be protected. Such concern has been adverted to even by the Hon'ble Supreme Court while enlarging the accused no.2 on bail.

7. The investigation is complete. The charge-sheet has been filed. The applicant does not appear to be a flight risk. Considering the period of incarceration of the applicant which is more than seven years with no possibility of the

trial concluding any time soon and also considering that the co-accused having similar role are enlarged on bail and as the applicant does not have a greater role than them, I am inclined to enlarge the present applicant on bail on the ground of long incarceration. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Sandip Sopan Pachpind in connection with C.R. No.332/2016 with Talegaon Dabhade Police Station, shall be released on bail on his furnishing P.R. Bond of Rs.1,00,000/- with one or more local sureties in the like amount.
- (c) As per further instructions of the applicant, learned senior counsel submitted that after being released on bail, the applicant shall reside in Raigad District as none of the other co-accused, who have been enlarged on bail, are presently residing in Raigad District.
- (d) The applicant shall attend the Investigating Officer of Khopoli police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (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) Except for attending the trial, the applicant shall not enter the Pune District and shall restrict himself only to Raigad District, after being released on bail, till the trial concludes.

(g) On being released on bail, the applicant shall furnish his contact number and residential address to the trial Court and the Investigating Officer and shall keep them updated, in case there is any change.

(h) The applicant shall attend the trial regularly.

(i) The applicant shall surrender his passport, if any, to the investigating officer.

(j) If the applicant is found for threatening the witnesses or tampering with evidence, the same shall be viewed seriously which may invite the consequence of cancellation of this bail.

8. The application is disposed of.

9. In view of the disposal of the bail application, the interim application is also disposed of.

(M. S. KARNIK, J.)