



Diksha Rane

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

BAIL APPLICATION NO.2138/2023

MOHAN SAMBHAJI VAGHE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Veerdhawal Deshmukh for the applicant.

Ms. Veera Shinde, APP for the State.

Adv. Swaraj Jadhav for the informant.

API Avinash B. Gharbude, Rasayani Police Station, Raigad.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 9, 2023.

P.C. :

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

2. This is an application for bail in respect of the offence punishable under Sections 302, 201, 435, 506 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 12/10/2021 vide C.R. No.153/2021 with Rasayani Police Station, Raigad.

3. Learned counsel for the informant submitted that an order dated 7/2/2023 passed by this Court in Criminal Bail Application No.2184/2022 and Criminal Bail Application

No.2059/2022 in respect of the co-accused nos. 1 and 3 is challenged before the Hon'ble Supreme Court. It is submitted that the matter is likely to come up for hearing after vacation. Learned counsel for the applicant submitted that the case is listed under the defect list.

4. There are in all three accused. The applicant is the accused no.2. It is alleged that the deceased was having an affair with the wife of the accused no.1. The wife of accused no.1 is the sister of the present applicant. The accused nos.1 and 3 have been enlarged on bail by this Court by an order dated 7/2/2023. The order reads thus:-

"3. According to the prosecution, the deceased had illicit relationship with the wife of the applicant - Malhari Kerale. It is alleged that the present applicants thus on the date of incident, which took place in the intervening night of 12 October 2021 and 13 October 2021 accosted the deceased and poured the kerosene on the tempo by which he was going from Panvel to Pune and the same was set on fire.

4. Admittedly, the case is based on circumstantial evidence. Initially, accidental death was registered. There is no evidence to show that traces of kerosene were found at the place of incident. Considering the facts and circumstances of the case, I am inclined to release the applicants on bail. Hence, the following order is passed :

(i) Applications are allowed.

(ii) The applicants be released on bail in Crime No. 153 of 2021 registered at Rasayani Police Station, Raigad for the offences punishable under Sections 302, 201, 435, 506 r/w. 34 of Indian Penal Code, on furnishing P.R. Bond in the sum of Rs.25,000/- each with one or two sureties in the like amount.

(iii) The applicants shall attend the concerned police station once in a month i.e. on first Saturday between 11.00 a.m. to

2.00 p.m. till conclusion of trial.

(iv) The interim applications for intervention stand disposed of.”

5. Learned counsel for the informant submitted that this Court should await the decision of the Hon’ble Supreme Court in the appeal filed challenging the order dated 7/2/2023. However, it is the question of liberty of the applicant.

6. The applicant is in custody for more than two years with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk.

7. Considering that the co-accused having a larger role than the present accused have been enlarged on bail and as question of liberty of the applicant is involved, on the ground of parity, I am inclined to enlarge the present applicant on bail. Needless to mention, it is always open for the informant to take appropriate proceedings after the orders are passed by the Hon’ble Supreme Court in the pending appeal but the applicant cannot be deprived of his liberty in the face of the order passed by this Court. Hence,

the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Mohan Sambhaji Vaghe in connection with C.R. No.153/2021 with Rasayani Police Station, Raigad, 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 is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Rasayani police station, Raigad, once in a month every first Saturday of the month between 11.00 a.m. and 1.00 p.m. till the trial concludes.
- (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.

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

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

8. The application is disposed of.

(M. S. KARNIK, J.)