

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

CRIMINAL BAIL APPLICATION NO.2394 OF 2022

Rahul Babu Masul	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Amit Icham, for the Applicant.
Ms. P. P. Shinde, A.P.P for the Respondent – State.
PSI – Chavan, Vishrantwadi Police Station, Pune, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 19th AUGUST 2023

P.C. :

1. Heard learned counsel for the parties.
2. This is the second bail application preferred by the applicant seeking his enlargement on bail in connection with C.R. No.307 of 2018 registered with the Vishrantwadi Police Station, Pune, for the alleged offences punishable under Sections 302, 201 r/w 34 of the Indian Penal Code, under Sections 25(4) of the Arms Act and under Sections 37(1)(3) r/w 135 of the Maharashtra Police Act.

3. The applicant's first bail application was withdrawn, since the Court was not inclined to enlarge the applicant on bail. The said order dated 19th January 2021 is on page 208 of the application.

4. Learned Counsel for the applicant seeks bail on the ground of parity. He submits that subsequently, this Court (Coram: Prakash D. Naik, J.) vide order dated 27th March 2023 has granted bail to co-accused – Rehman @Jafar Rajmohammad Shaikh. He submits that the role of the applicant is similar to that of co-accused – Rehman, who has been released on bail by this Court vide order dated 27th March 2023.

5. The prosecution case rests on circumstantial evidence. The circumstance being evidence of last-seen i.e. the deceased was last-seen in the company of all the accused including the applicant. The other circumstance, according to the prosecution is that of a call made by the deceased – Anil to his sister and that his sister has alleged in her statement that she heard the quarrel between her brother and

the accused. As far as recovery is concerned, there is recovery of a pant at the instance of the applicant, however, the same is not blood-stained. Learned counsel for the applicant has also filed an undertaking-cum-affidavit of the applicant dated 16th June 2023, duly affirmed before the Superintendent, Yerwada Central Prison, Pune. In the said undertaking-cum-affidavit, the applicant has undertaken to attend the trial Court on every date. He has also undertaken not to indulge in any criminal activities in future and to abide by the conditions as may be imposed by this Court.

6. It is pertinent to note that this Court (Coram: Prakash D. Naik, J.) vide order dated 27th March 2023 has granted bail to co-accused – Rehman, on merits. As far as Rehman is concerned, apart from the evidence of last-seen, there is recovery of blood stained clothes and a sickle at his instance as well as the statement of the sister of the deceased. It appears that there were three cases registered against the applicant. In two cases, he was a juvenile and has been acquitted in both the cases and that the third case is pending. It

appears that co-accused – Rehman had also one case registered against him.

7. Considering the aforesaid, 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 executing PR Bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
- (ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 12:00 noon, till the conclusion of the trial;
- (iii) 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;

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

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

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

(vii) 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.

8. Learned counsel for the applicant to place a copy of the undertaking-cum-affidavit filed by the applicant in this Court before the learned Judge, who is seized of the case.

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

10. 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.

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

REVATI MOHITE DERE, J.