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

BAIL APPLICATION NO. 2679 OF 2022

Yogesh Vitthal Tandale ..Applicant
VS.
The State of Maharashtra ..Respondent

Mr. Vinod Kashid, for the Applicant.
Ms. P. N. Dabholkar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 11, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP.
- 2.** This is an application for bail in respect of C.R.No.510/2019 dated 06/11/2019 registered with Central Police Station, Dist Ulhasnagar for the offence punishable under sections 307, 395, 326, 324, 143, 147, 148, 149, 427 of the Indian Penal Code, 1860 and under sections 37(3) (1), 135 of the Maharashtra Police Act.
- 3.** The applicant is arrested on 07/01/2022. He is in custody for more than 1 year.

4. Mr. Shailesh Ananta Bhoir one of the co-accused whose role is absolutely identical with that of the applicant filed anticipatory bail application no. 694 of 2020 in this Court. This Court by an order dated 21/09/2022 confirmed the interim order. The order reads thus :

"1] On 19.06.2020 the Applicant was admitted to interim protection in the light of the submissions advanced on his behalf that he was not attributed the role of assaulting the injured but the only role that surfaced was he was sitting on a motorcycle. He was granted protection and till date the said interim protection is in operation.

2] The learned counsel for the Applicant has invited my attention to the charge-sheet filed in the subject CR in which the Applicant is shown as absconding.

3]The detail charge-sheet would reveal that investigation is complete as it has compiled statements of various witnesses as well as footage of CCTV camera on record. On perusal of the said charge-sheet and statements contained therein, the role equivocally assigned to the present Applicant is that he was sitting on a motorcycle and instigating people to assault the injured. Upon his instigation, it is alleged that 8-9 persons armed with wooden sticks, iron rods and knives assaulted the injured. It is submitted that the main assailant Keval Shelke

(accused No.2) is released on bail. Apart from this, four other co-accused are released on bail and three juvenile accused were also granted protection.

4] Considering that the investigation is now complete and exhaustive charge sheet has been filed in the subject CR, I do not see any reason why custodial interrogation of the Applicant is necessary when his role has now clearly surfaced on record as an instigator, but not as assailant. Though he may take consequences of sharing common object with the aid of unlawful assembly, after three years of the registration of CR, he cannot be arrested.

5] In the wake of above, order dated 19.06.2020 is made absolute.”

5. The applicant is in custody since 07/01/2022. The role of the applicant is that of the instigator. Co-accused Shailesh Anantha Bhoir has been released on pre-arrest bail whose role is absolutely identical with that of the applicant. The investigation is complete. Charge-sheet has been filed. On the ground of parity, the applicant is entitled to bail. Hence, the following order.

ORDER

(a) The application is allowed.

(b) The applicant- Yogesh Vitthal Tandale in connection with C.R. No. 510/2019 dated 06/11/2019 registered with Central Police Station, Ulhasnagar shall be released on bail on furnishing P.R. bond in the sum 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 not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant should not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer of the concerned Police Station and shall keep him updated, if there is any change.

(f) The applicant shall attend the concerned Police Station once in a month on every Monday of the first week between 11.00 a.m. and 1.00 p.m.

(M. S. KARNIK, J.)