



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

BAIL APPLICATION NO. 2619 OF 2023

NITIN DEVIDAYAL JAISWAR

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Shyamrishi Pathak and Adv. Satya Vijay Yadav for the
Applicant.

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

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 09, 2023

P.C. :

1. Mentioned out of turn.
2. Heard learned counsel for the applicant and learned
APP for the State.
3. This is an application for bail in respect of the offence
punishable under Sections 307, 504, 143, 144, 145, 147,
148, 149 of the Indian Penal Code, Sections 37(1), 135 of
the Maharashtra Police Act and Sections 4, 27 of the Indian
Arms Act, registered on 16/02/2023 vide C.R. No.68 of
2023 with R.A.K. Marg Police Station, Mumbai.
4. Priority was given to this application as it was

mentioned by the learned counsel for the applicant that the applicant's real brother is getting married on 28/11/2023. This aspect is verified by the learned APP.

5. The applicant was arrested on 17/02/2023. It is the case of the prosecution that 5 accused have assaulted the complainant with weapons. The names of the 3 known persons who are the assailants are named in the FIR. My attention is invited to the order dated 16/03/2023 passed by the Sessions Court in respect of co-accused Vinay Vinod Pawar who has been enlarged on bail. The facts in the said order are that the 3 accused who were named in the FIR are the assailants and 5th person who is not the assailant is enlarged on bail. The applicant's role is the same as that of Vinay Vinod Pawar.

6. Learned APP opposed the application and submitted that the motorcycle and a knife had been recovered from the applicant. There is material to indicate that it is the applicant who has assaulted the complainant. Learned APP then states that the applicant was externed and during the period of his externment, he committed the present

offence. To counter this submission, learned counsel for the applicant submitted that it is not the applicant who was externed but the accused who was externed was Mihir Keshav Kudtarkar i.e. accused No.3 in the FIR. If it is found that the statement made by learned counsel for the applicant is incorrect, it is always open for the prosecution to apply for cancellation of bail.

7. Considering the applicant's role which is similar to that Vinay Vinod Pawar who has been enlarged on bail, the applicant can be enlarged on bail. The investigation is complete and the charge-sheet has been filed. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Nitin Devidayal Jaiswar in connection with C.R. No.68 of 2023 registered with R.A.K. Marg Police Station shall be released on bail on his/her 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 R.A.K. Marg 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) 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) Except for the purpose of reporting to the Investigating Officer, the applicant shall not enter the jurisdiction of R.A.K. Marg Police Station from 06/12/2023, till the trial concludes.

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

8. The application is disposed of.

(M. S. KARNIK, J.)