



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

BAIL APPLICATION NO.2764 OF 2023

ATIK AHMAD KHAN

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Gaurav Bhawnani a/w Adv. Shifa Khan i/b. Zeeshan Khan for the Applicant.

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

PSI J. A. Bhosale and HC More, Wagle Estate Police Station.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 10, 2023

P.C. :

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

2. This is an application for bail in respect of the offence punishable under Sections 302, 342, 142, 143, 145 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) read with Sections 37(3), 135 of the Maharashtra Police Act registered on 30.05.2021 vide C.R. No.146 of 2021 with Wagle Estate Police Station.

3. There are in all 13 accused. The applicant is the accused No.1. The applicant was arrested on 30.05.2021

and is now in custody for more than two years and four months. The prosecution case is that the deceased was found running away with the minor daughter of the applicant aged six years. The crowd therefore ran after him and assaulted the said person (deceased). Some of the accused assaulted the deceased with fist and kick blows. So far as the applicant and the other accused is concerned, it is the accusation that they have assaulted the deceased with a stick.

4. Learned APP opposed the application for bail and submitted that the victim is badly beaten up. My attention is invited to the CCTV footage to demonstrate that the applicant was having a stick in his hands and that the deceased was taken in a rickshaw. It was further submitted that the applicant had told the informant as the deceased had caught hold of his daughter, the applicant will not spare him.

5. Prima facie there is a sudden and grave provocation. The incident is not premeditated. The applicant is in custody for more than two years and four months. The assault is

also attributed to other accused who are enlarged on bail. There are no criminal antecedents reported against the applicant. In the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail as the trial is likely to take a long time to conclude. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Atik Ahmad Khan in connection with C.R. No.146 of 2021 registered with Wagle Estate Police Station 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 Wagle Estate Police Station once in two months on 1st Monday of every alternate month between 11.00 am and 1.00 pm. commencing November 2023.
- (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.

6. The application is disposed of.

(M. S. KARNIK, J.)