

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

BAIL APPLICATION NO.3407 OF 2022

Stephen Das Swami ..Applicant
VS.
The State of Maharashtra ..Respondent

Mr. Hrishikesh P. Giri a/w Mr. Swapnil R. Chopade, for the Applicant.
Mr. S. V. Gavand, APP for the State.
PSI- Mr. Dayanand Vanave, Nerul Police Station present.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 30, 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. 368 of 2013 dated 29/12/2013 registered with Nerul Police Station for the offence punishable under sections 307, 392, 353, 333, 34 of the Indian Penal Code, 1860 and under sections 37(1), 135 of Arms Act, sections 3(1)(ii), 3(2), 3(4) of Maharashtra Control of Organised Crime Act, 1999.

3. The applicant was arrested on 29/12/2013 and is in custody for almost 9 years and 1 month. The co-accused – Chirag Mahesh Loke has been released on bail by this Court by order dated 08/09/2022 in Bail Application No. 1264 of 2022. The allegations against the present applicant are reflected in the order dated 08/09/2022 while granting bail to the co-accused-Chirag Mahesh Loke. The relevant paragraphs of the said order read thus:

"4. The case of the prosecution in the FIR is in respect of the incident which took place on 29.12.2013. It is alleged that the applicant who is a co-accused No.2 is a part of a gang involved in chain snatching of which the accused No.1-Stefen Das Swami is the gang leader. It is alleged that after the chain snatching incident, the accused tried to escape. The accused were chased by the policemen. The accused No.1 thereupon assaulted a policeman with a knife as a result of which the policeman suffered injuries on his chin. The applicant (accused No.2) is alleged to have instigated the accused No.1 to assault the policeman.

8. So far as the incident in question is concerned, the role attributed to the applicant is that after the chain snatching incident, the applicant instigated the accused No.1 to assault the policeman with the knife when the policeman tried to apprehend the accused. The commonality of the offences alleged against the present applicant qua the accused No.1 is in respect of as many as 5 C.R.'s. In respect of C.R. No.160 of 2011 under Section 379 read with 34 of IPC; C.R. No.165 of 2011 under Section 392, 297, 506(2) read with 34 of IPC and Section 37 (1), 135 of Bombay

Police Act, 1951; C.R. No.420 of 2011 under Section 379 read with 34 of IPC are concerned, the applicant has been convicted. It is the submission of learned counsel for the applicant that he has already undergone the sentence the applicant is in custody since 29.12.2013. The other two offences are C.R. No.424 of 2013 under Section 379 read with 34 of IPC and C.R. No.236 of 2013 under Section 392 read with 34 of IPC of the Vashi Police Station and Nerul Police Station, respectively, which are pending trial. Even in respect of the present offence there is commonality.”

4. The applicant is the accused no.1, the gang leader. The role of the accused no.1 is stated in the aforesaid order. It is pertinent to note that this Court by order dated 02/02/2022 directed the trial Court to complete the trial within a period of 6 months from 02/02/2022. The trial is not yet over. The trial is likely to take some more time. The applicant’s right to speedy trial has to be recognised. On this ground as well as on the ground of long incarceration, the applicant can be enlarged on bail.

5. Taking an over all view of the matter, the bail application is allowed on the following terms.

ORDER

(i) The applicant – Stephen Das Swami be released

on bail in connection with C.R. No.368 of 2013 registered with the Nerul Police Station on executing PR Bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.

(ii) The applicant is permitted to furnish cash bail in the sum of Rs.50,000/- for a temporary period of 6 weeks.

(iii) The applicant to report to the Police Sub Inspector of the Nerul Police Station once in a month between 11.00 a.m. to 1.00 p.m. on the first Saturday of the month till the conclusion of the trial.

(iv) The applicant shall regularly attend the trial on the date of hearing unless exempted by the Court.

(v) The applicant shall not tamper with the evidence or threaten the witnesses.

(vi) The bail application stands disposed of.

(M. S. KARNIK, J.)