

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3065 OF 2022

Tauqeer Ali Akbar Ali Ansari ... Applicant

V/s.

State of Maharashtra ... Respondent

.....
Mr. Nilesh Navale, Advocate for Applicant.

Mr. Y. Y. Dabke, APP for Respondent-State.
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CORAM : SHIVKUMAR DIGE, J.

DATE : 12 OCTOBER, 2023

P C:-

1. By this Application, Applicant is seeking bail in C.R.No. 92 of 2021 registered with Shantinagar Police Station, Bhiwandi for the offences punishable under Sections 394, 395, 397 read with 34 of Indian Penal Code, 1860 (for short "IPC") and Sections 3 and 23 of Arms Act.

2. It is the prosecution's case that on 14.02.2021 when complainant was sitting with his co-worker in his office, at that time four unknown persons who had covered their faces came in their godown and shown knife and pistol to them and took out amount from their shirt and pant pockets. One of the accused assaulted co-

worker Jagdish with pistol on his head. When they tried to flee away one accused was caught hold by people gathered there. It is alleged that Applicant was one of the assailants and the robbed mobile phone is recovered at the instance of Applicant.

3. It is the contention of learned Counsel for the Applicant that Applicant's Test Identification Parade was taken. In the Test Identification Parade complainant and witnesses have not identified the Applicant. Other co-accused i.e. accused Nos. 2, 3, 4, 7 and 8 have been released on bail. Applicant is behind the bar more than two years and eight months. Hence, requested to allow the Application.

4. It is the contention of learned APP that Applicant was present at the time of incident. The mobile phone of the complainant is recovered at the instance of Applicant. There is *prima facie* case against the Applicant. Hence, requested to reject the Application.

5. I have heard both the learned Counsel. Perused the FIR and charge-sheet. Applicant has not been identified by the complainant and injured witnesses in Test Identification Parade. Though mobile phone is recovered at the instance of Applicant, IMI number of the said mobile phone is not mentioned in the charge-sheet. The co-accused have been released on bail. Investigation is completed and charge-sheet has been filed. Applicant is behind the bar more than

two years and eight months. Considering the above facts, further detention of the Applicant is not required.

6. In view of the above, I pass following Order:

ORDER

- (i) Applicant be enlarged on bail in C.R.No. 92 of 2021 registered with Shantinagar Police Station, Bhiwandi Police Station, on executing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (ii) Applicant shall attend the concerned police station once in a month i.e. on first Monday between 11.00 a.m. to 3.00 p.m. till framing of charge.
- (iii) Applicant shall inform his latest place of residence and mobile number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Investigating Officer.
- (iv) Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

7. The Application is allowed in the aforesaid terms and is accordingly disposed off.

8. It is made clear that the above observations are made only for

the purpose of granting bail and the Trial Court shall decide the case on its own merits in accordance with law and uninfluenced by the observations made in this order.

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

(SHIVKUMAR DIGE, J.)

SONALI
SATISH
KILAJE

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by SONALI
SATISH KILAJE
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