

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

CRIMINAL BAIL APPLICATION NO.3665 OF 2023

Jayprakash Dinanath Prasad

.... Applicant

NIKITA
KAILAS
DARADE

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NIKITA KAILAS
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versus

The State of Maharashtra

.... Respondent

Mr. Vinod S. Chate a/w Kalpana V. Chate a/w Sumit Kumar S.
Nimbalkar i/b Chate and Associates for the Applicant.

Ms. Sangita D. Shinde, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 6th DECEMBER 2023

P.C. :

1. This is the third time, the Applicant has approached this Court for release on bail. On the first occasion, the Criminal Bail Application No.874 of 2021 was withdrawn as noted in the order dated 5th May 2021. On the second occasion, again Criminal Bail Application No.4158 of 2021 was withdrawn as noted in the order dated 24th February 2022. The applicant was arrested on 19th February 2020, and the unfortunate part is that even today, the charges are not framed. Therefore, the applicant

is justified in approaching this Court again for his release on bail

2. Heard Mr. Vinod S. Chate, learned counsel for the Applicant and Ms. Sangita D. Shinde, learned APP for the State.

3. The FIR was lodged at Vashi Police Station on 16th February 2020, vide C.R. No.88 of 2020 under Sections 324, 504, and 307 read with Section 34 of the Indian Penal Code. It was lodged by the victim Sunilkumar Gupta. It is mentioned in the FIR that the applicant got married to the informant's sister on 8th February 2015. The applicant and his family members were harassing her for demand of dowry. The incident occurred on 16th February 2020 around midnight. The informant had gone to the house of the applicant on the night of 15th February 2020. The demand for dowry was repeated and there was a quarrel. The informant and his sister were humiliated. Both of them started going out of the house. When they reached a nearby lane, the applicant and his family members followed them. The applicant assaulted the informant with knife. He tried to assault him on his throat. The informant tried to defend his blow. Therefore, the knife caused injuries under his chin. The

applicant stabbed the informant on his abdomen and also assaulted him on his head. The crowd gathered thereafter and the informant was taken to the hospital. On these allegations, the FIR was lodged.

4. The applicant was arrested on 19th February 2020. The investigation was carried out. The charge-sheet contains the statements of the eye-witnesses and recovery Panchanama of blood stained cloths worn by the applicant at the time of the incident. Learned counsel for the applicant submitted that the applicant is in custody since 19th February 2020 i.e. for almost four years. In the mean time, he was released on temporary bail during the period of pandemic. He had promptly surrendered after 45 days of liberty. During that period, he did not commit any offence and did not cause harassment to the first informant or his sister. He submitted that on merits, material against the applicant, will have to be proved during trial. He submitted that till today, charges are not framed and, therefore, trial will take a very long time to reach conclusion. On this sole ground, he sought the applicant's release on bail.

5. Learned APP opposed these submissions. She submitted that on the previous two occasions, the bail applications were allowed to be withdrawn. The Trial Court is heavily burdened and, therefore, it was not possible to take up this Trial. She submitted that the offence is serious and, therefore, bail should not be granted to him.
6. I have considered these submissions. The charge-sheet contains statements of the first informant who described the incident in detail. Apart from him, there are eye witnesses namely Mateshwari Gond, Nivedita Prasad (sister of the first informant and wife of the applicant), and Gulab Patel. They have described the incident consistently. The medical report shows that the first informant had suffered stab injury over the abdomen one of 1X1X7 cm deep. There were multiple CLW's over left hand palm, CLW over right thumb 2X1X0.5 cm, CLW over chin 2X1x1 cm, and CLW over head 1.5 X 0.5 X 0.5 cm. There is recovery Panchanama of the cloths of the applicant. All this material is incriminating against the applicant, however the Court cannot ignore the fact that for almost four years from his

arrest, the charges are not framed. No justifiable reasons are pointed out by the learned APP. The trial is not likely to start and get over in a reasonable period. The applicant cannot be kept behind bars for an indefinite period. The applicant has not caused any further trouble during his release for 45 days during the period of Pandemic. This is an additional factor in his favour for the grant of bail. There are no antecedents against him.

7. Considering these factors, the applicant can be released on bail on certain conditions.
8. Hence, the following order :

ORDER

- (i) In connection with C.R. No.88 of 2020, registered at Vashi Police Station, the applicant is directed to be released on bail on executing PR bond in the sum of Rs.50,000/- with one or two sureties in the like amount.
- (ii) The applicant shall report to the Trial Court on every alternate Monday till the charges are framed.
- (iii) The applicant shall not threaten any witness. He shall not tamper with the evidence.

- (iv) The Trial Court shall frame the charges within a period of three months from today and shall make efforts to conclude the trial expeditiously though the applicant may not be under trial prisoner because of his release on bail.
- (v) With these observations, the bail application stands disposed of.

(SARANG V. KOTWAL, J.)