



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

BAIL APPLICATION NO. 3986 OF 2023

KARAN KHANDERAO KUMBHAR

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Vishal Kolekar, for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

Api- Ravindra Alekar, Yerwada police station Pune city present.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 15, 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 307, 326, 504, 188, 269 read with 34 of the Indian Penal Code, 1860, under section 4(25) of the Arms Act, 1959, under sections 37(1) and 135 of the Maharashtra Police Act, 1951, sections 3 and 7 of the Criminal Law Amendment Act, under section 3 of the Epidemic Diseases Act, under section 11 of the Maharashtra Covid-19 Rules, 2020 and section 51(b) of the Disaster Management Act, 2005 registered on 10/06/2021 vide C.R.

No.302 of 2021 with Yerwada police station. The applicant was arrested on 11/06/2021.

3. Learned APP requested for some time to take instructions. I am not inclined to accept the request made by learned APP as the materials on record are sufficient to decide the present application.

4. Learned APP while opposing the application for bail, invited my attention to the order dated 09/11/2022 passed by this Court in the first Bail Application No. 1188 of 2022.

The relevant portion of the said order reads thus :

“1. Heard learned Counsel for the parties.

2. Applicant seeks his enlargement on bail in connection with Crime No. 302/2021 registered with Yerwada Police Station, Pune for the offences punishable under Sections 307, 326, 504, 188, 269 read with Section 34 of the Indian Penal code and Section 4/25 of the Arms Act, (Criminal Law 2nd Amendment), under Sections 3, 7 and Maharashtra Police Act, 37(1), 135 and Section 11 of the Maharashtra Covid- 19 Rules, 2020 and 51(b) of Disaster Management Act.

3. It is prosecution's case that on 9th June, 2021 applicant and three co-accused armed with weapons were waiting outside the house of the complainant. No sooner, he came out, brutal assault was mounted on him. Complainant alleged, applicant inflicted serious injury on his head, when he tried to escape from the clutches of the accused, he was chased and again assaulted by the applicant on vital part of his body. As a result, the complainant had suffered two incised wounds on right parietal-temporal region and suffered displaced fracture of left parietal bone. The Injury Certificate, corroborates the allegation of assault.

Though it is argued that the co-accused have been granted bail, in my view, in consideration of the facts of the case and the injuries sustained by the complainant, who was just a 16 year old boy, I am not inclined to release the applicant on bail. Moreover, the statements of the eye-witnesses corroborates the complaint on the material allegations. Even otherwise, offence being punishable with imprisonment for 10 years and having regard to the role attributed to the applicant, the application is rejected.”

5. For the past one year since passing of the order dated 09/11/2022, I am informed that even charge has not been framed. The applicant is in custody for more than 2 and half years. There is no progress in the trial. The trial is not likely to conclude any time soon. No doubt, the observations made by this Court in the earlier order rejecting the bail indicate the gravity of the offence.

6. Learned counsel for the applicant submits that there is one NC registered against him. The order passed by the trial Court does not reveal any antecedent against the applicant. There is another C.R registered concerning the order dated 05/06/2021 of Pune Municipal Corporation alleging breach of the Covid protocol during the Covid period. In my opinion, such antecedent is not sufficient to deprive the applicant the facility of bail.

7. I am inclined to enlarge the applicant on bail in the facts and circumstances of the present case as the applicant is in custody for more than 2 and half years with no possibility of trial concluding soon. I am inclined the enlarge the applicant on bail but by imposing conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Karan Khanderao Kumbhar in connection with C.R. No.302 of 2021 registered with Yerwada police station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more local sureties in the like amount.
- (c) The applicant shall attend the investigating officer of Yerwada police station once in a month on first Monday of every month between 11.00 a.m. and 1.00 p.m.
- (d) 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.
- (e) 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.

(f) Except for attending the trial and for the purpose of reporting to the investigating officer, the applicant shall not enter the jurisdiction of Pune Corporation City limits after being released on bail, till further orders of the trial Court.

(g) 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.)