

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 78 OF 2024
WITH
CRIMINAL APPLICATION NO. 1317 OF 2024
IN BA/78/2024

1. Kartarsingh s/o Hatyarshing Tak
2. Bablusingh @ Hanumansing s/o Hatyarsingh Tak ..Applicants

Versus

The State of Maharashtra

...Respondent

...

Advocate for Applicant : Mr. Ghanekar Nilesh S.

APP for Respondent/State : Mr. S.N. Kendre

Advocate for Complainant : Mr. S.S. Dargad

...

CORAM : S.G. MEHARE, J.

DATED : APRIL 03, 2024

PER COURT:-

1. The applicants are seeking bail in Crime No.324 of 2021 registered with Kalamnuri Police Station, District Hingoli for the offences punishable under Sections 307, 326, 336, 427, 143, 147, 148, 149, 452, 341 of the Indian Penal Code, Sections 4/25, 3/27 of Arms Act, Sections 3(1)(ii), 3(2), 3(4) of Maharashtra Control of Organized Crime Act ('MCOC Act' for short) and Section 7 of the Criminal Amendment Act.

2. The applicant Kartarsingh is coming before the Court for the third time. His earlier two bail applications were rejected on

merit. The applicant Bablusingh is coming before the Court for the first time.

3. For applicant Kartarsingh, the counsel for the applicants has to satisfy the Court there were change in circumstances. However, he submits that he is seeking bail on the ground of delay in trial. He is languishing in jail for more than two years. He would submit that the delay is not on the part of the accused. The trial is listed for muddemal property. He also argued that the assailants from the opposite side have been granted bail. The trial may take its time. Hence, he may be granted bail.

4. For applicant Bablusingh, learned counsel for him argued that nothing is recovered from him. The complainant has exaggerated the injuries suffered to him. There is a great possibility of his false implication in crime. Out of fear, he disappeared from the town. He did not avoid the investigation. Co-accused Kartarsingh has also received bullet injuries. However, only to arraign him an accused, his name was taken as an assailant. He was arrested on 28.02.2023. Since then he is behind bar. Mere allegations of an injured, which falsifies from the record, he may not be kept behind bar. He prayed to allow the application.

5. The complainant filed an application supporting for the bail of the accused. However, in a case disturbing the public tranquility. Hence, merely on the no objection of the person injured,

the bail application cannot be considered. If they have amicable settlement, let the trial Court test the effect of such settlement.

6. Learned APP has strongly opposed the application. He submits that there are nine crimes against applicant Kartarsingh and eight crimes to the discredit of applicant Bablusingh. The accused Bablusingh was absconding for a longer period after the incident. The investigation was going on. Hence, the trial could not be progressed. The muddemal may be received in the near future and the trial may be commenced within a short period. The prosecution also has not protracted the trial deliberately. The offence is serious. The question of public tranquility was involved. The law and order was also disturbed. The applicants have serious antecedents involving in identical offences. He also submits that there is no material to satisfy the Court that if the bail is granted, the applicant would not involve in the crime. They are history-sheeter; hence, they are not entitled to bail under Section 21 of the MCOC Act. He prayed to dismiss the application.

7. Considering the submissions of the learned APP that there was no deliberate delay in protracting the trial at the prosecution end and the abscondence of co-accused Bablusingh, it would be difficult to accept the arguments of the learned counsel for the applicant Kartarsingh that there is deliberate delay in trial. As far as co-accused Bablusingh is concerned, he has also no good past.

Eight crimes of serious nature are to his discredit. Considering his abscondence, an inference can be drawn that he may flee away from the trial. Apart from his conduct, there are direct allegations against him that he had open fire at the complainant and he sustained the fire injuries. Even if it is considered that the complainant/injured has exaggerated about the assault, the doctrine of *Falsus in uno, falsus in omnibus* does not apply to our Country. Merely stating something wrong does not affect the other facts stated by the witness or a person. Considering the papers placed before the Court and Section 21 of the MCOC Act, there appears substance in the argument of the learned APP that the applicants do not deserve bail.

8. The offences are apparently serious. Considering the nature of the incident, there are reasons to believe that the law and order of the town must have been disturbed.

9. For the above reasons, the application stands dismissed.

10. Criminal Application No.1317 of 2024 also stands dismissed.

(S.G. MEHARE, J.)