

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1344 OF 2024
WITH
CRIMINAL APPLICATION NO. 3520 OF 2024

Abaji @ Rameshwar Bhagwan Gade
VERSUS
The State Of Maharashtra

...
Advocate for Applicant : Mr. Ladda Somnath G.
APP for Respondent/State : Ms. P.V. Diggikar
Advocate for Complainant/Victim : Mr. G.R. Syed

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CORAM : S.G. MEHARE, J.

DATED : AUGUST 20, 2024

PER COURT:-

1. Heard the learned counsel for the applicant, learned APP for the State and learned counsel for the victim.
2. The applicant seeks bail in Crime No.222 of 2013, registered with Newasa Police Station, District Ahmednagar, for the offences punishable under Sections 302, 120(B), 201, 143, 147, 148, 149 of the Indian Penal Code, Section 3/25 of the Arms Act and Sections 37(1)(3) and 135 of the Maharashtra Police Act.
3. The applicant has been arrested on 02.10.2013. Since then, he has been languishing in jail for the present crime. It has been alleged against the applicant that he, along with the other co-accused facilitated the main accused in murdering the Advocate. Many questions have been raised. The trial has been running since 2013 and

is now fixed for recording the statement of the accused under Section 313 of the Criminal Procedure Code.

4. Learned counsel for the applicant brought to the notice of this Court how this trial has been travelled from one Court to another Court and how was the speed of the trial. He would submit that the Hon"ble Supreme Court has granted bail to the co-accused Chourangi, and the main accused Sopan. He did not claim parity with Sopan. Therefore, pending the application cancelling the bail orders of Sopan before the Hon"ble Supreme Court, has no concern with this application. He referred to the order of the Hon"ble Supreme Court dated 08.11.2023 and pointed out that the Hon"ble Supreme Court considered the stage of the trial and the period of incarceration of the accused. The Hon"ble Supreme Court specifically observed that in any case, the evidence is almost complete, inasmuch as the Investigating Officer is in the witness box. The Court also granted bail to the co-accused Chourangi. He has referred to various documents and argued that there was nothing against the applicant. He also pointed out the tactics applied to prolong the trial at the end of the prosecution, particularly furnishing the list of additional witnesses and dropping them subsequently. He would submit that there was no speedy trial. The applicant has no antecedents. Hence, he may be granted bail.

5. Learned APP has strongly opposed the application. She opposed the application on the grounds of the role attributed to the

applicant. The applicant has not only facilitated the main accused but he also provided the sim card and money to purchase the country-made pistol. The prosecution has a case that the juveniles have been used to commit the crime. They were trained the juveniles to run the pistol. It is also argued that the trial is at the fag end. The co-accused Sopan, who has been granted bail, has violated the bail conditions. He is the real brother of the present applicant. Therefore, there is a great possibility of his absconding. The trial has been protracted this way or another.

6. Learned counsel Mr. Syed for the victim opposed the application and argued that the applicant is a member of the gang and his real brother of the main assailant. There are many eyewitnesses to the incident. The offence is serious. The order of granting bail to his brother by the Hon"ble Supreme Court is under review. Considering the gravity of the offence, he may not be granted bail.

7. In reply, learned counsel for the applicant would submit that though the allegations have been levelled against the applicant that he provided money to purchase the country made pistol, till date not evidence has been produced on this allegation. He also argued that the CCTV footage of the spot of the incident was recovered, but it was not used. It is he, who pointed out to the investigation officer to produce that evidence. In the CCTV footage, this applicant was not

captured. He has been implicated as a co-accused, only being the brother of the co-accused Sopan.

8. Perused the papers. It is admitted that the order granting bail to the co-accused Chourangi by the Hon"ble Supreme Court is not impugned by way of a review petition. Though the evidence has been recorded, it shows that the trial was going on at a snail's speed. The Hon"ble Supreme Court, while granting bail to Chourangi also considered the stage of trial. However, the bail was granted because of his incarceration, which lasted more than ten years. *Prima facie*, it appears that the role attributed to Chourangi as per the FIR and the present applicant are identical. The applicant has been facing the trial for around 11 years without complaint. So, he may not be blamed solely for protracting the trial. It seems that the matter is hotly discussed in the town, and the trial is at the fag end. For these reasons, the bail could not be refused, and his fundamental right to have a speedy trial can not be violated. Since, the Hon'ble Supreme Court has considered the stage of trial, which may not be grounds for rejecting. The Hon'ble Supreme Court has considered the stage of trial. Hence, that may also not be grounds for rejecting the bail. So far as the prosecution's apprehension that the accused may violate the bail conditions and may not support the prosecution, may be guarded by imposing certain conditions. The applicant has a good case for bail on parity and long incarceration in jail. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant, Abaji @ Rameshwar Bhagwan Gade, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of the like amount in the above crime, on the conditions that;
 - (a) The applicant should not tamper with the prosecution witnesses and attend the trial on each and every date.
 - (b) The applicant should not protract the trial deliberately and should co-operate with the Court to complete the trial.
 - (c) The applicant should not create terror in Newasa area.
 - (d) The applicant should not enter Newasa town till the trial is concluded.
- (iii) Learned counsel for the victim requested to stay this order as he wish to impugn this order before the Hon"ble Supreme Court. This Court has considered the reasons for granting bail to the co-accused Chourangi. His bail order of Chourangi was not impugned by way of review. It would be unjustifiable to keep the applicant behind bar for more period. Hence, the request stands refused.
- (iv) Criminal Application No.3520 of 2024 stands disposed of.

(S.G. MEHARE, J.)