



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

BAIL APPLICATION NO. 449 OF 2024

MUKHTAR NASIR SHAIKH

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Babita Pandey a/w Adv. Dinesh Sonawane for the applicant.

Mr. S. A. Karmakar, APP for the State.

Mr. Prakash Mane, ASI, Shahupuri Police Station, Satara.

CORAM : M. S. KARNIK, J.

DATE : MARCH 15, 2024

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 376 and 506 of the Indian Penal Code and Section 3 of the Maharashtra Prevention and Eradication extent and commencement. of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013, registered on 20/08/2022 vide C.R. No.285 of 2022 with Shahupuri Police Station, Satara.

3. This is the second bail application. The applicant had

previously applied for bail in this Court vide Bail Application No.1563 of 2023. By order dated 01/09/2023 passed by this Court, the applicant was permitted to withdraw the application with liberty to apply for bail afresh after 3 months if the trial does not proceed substantially.

4. It is alleged by the prosecution that the incident took place on 19/08/2022 at around between 15.30 and 16.15 hrs. The prosecutrix was facing some problems. For resolving those problems she was informed that the applicant could be of help. The applicant practices black magic. It is alleged that under the pretext of solving her problems the applicant applied some substance on the prosecutrix as a result of which she could not resist the acts committed by the applicant which is an offence under the aforesaid sections. The prosecutrix just felt helpless.

5. So far as the prosecutrix is concerned, I am informed that notice was issued to her by the trial Court on 19/01/2023 but since then she has not appeared before the trial Court to depose. It is further informed that though the trial has commenced, only 2 witnesses are examined. The trial is

unlikely to conclude soon. The applicant does not appear to be a flight risk. The investigation is complete and the charge-sheet is filed. The applicant is in custody since 21/08/2022 for a period of 1 year and 6 months as an undertrial. The applicant will face the consequences if found guilty. The applicant cannot be incarcerated as a pre-trial punishment. In the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Mukhtar Nasir Shaikh in connection with C.R. No.285 of 2022 registered with Shahupuri Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (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) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

6. The application is disposed of.

(M. S. KARNIK, J.)