

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 147 OF 2024

SANTOSH
SUBHASH
KULKARNI

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Date: 2024.04.25
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Vishal Popat Shinde

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Sana Shaikh, a/w Maya Updeshe, Pratik Thadani and
Kulsum Shah, for the Applicant.

Ms. Ranajana Humane, APP for the State/Respondent No.1.
PSI S. V. Meher, V. B. Nagar Police Station, present.

CORAM: N. J. JAMADAR, J.

DATED: 24th APRIL, 2024

PC:-

1. Heard the learned Counsel for the parties.
2. This is an application for bail in CR No.296 of 2023 registered with Vinoba Bhave Marg Police Station, Mumbai, for the offences punishable under Sections 329, 323, 504, 506(2) and 427 of the Indian Penal Code, 1860 ("the Penal Code").
3. The first informant had known the applicant. On 21st September, 2023 at about 7.00 p.m. while the first informant was sitting in front of the spices store near Maharashtra Hall, the applicant took away the first informant towards Maharashtra Hall on the pretext that he had a matter to

discuss. The applicant took the first informant behind Krishna temple and attempted to extort money from the first informant. The applicant allegedly asked the first informant to transfer a room in favour of the applicant or pay money to acquire the room. As the first informant refused, the applicant allegedly assaulted the first informant by means of fist blows and iron rod.

4. The learned Counsel for the applicant submitted that the allegations in the FIR are omnibus. Neither there is reference to the room which the applicant allegedly attempted to extort, nor the amount which the applicant had allegedly demanded. It was further submitted that the Medico-Legal examination report does not support the claim of the applicant.

5. The learned APP resisted the prayer for bail. It was submitted that eye witness, namely, Rajesh Boda had witnessed the occurrence and specifically stated that upon refusal of the first informant to part with the amount as demanded, the applicant assaulted the first informant by means of fist blows and iron rod. The weapon of offence came to be recovered from the scene of occurrence. The learned APP further submitted that the applicant had antecedents

and, therefore, the applicant does not deserve to be enlarged on bail.

6. *Prima facie*, the allegations in the FIR as regards the property which the applicant attempted to extort by causing grievous hurt to the first informant does not seem to have been spelled out. The injury certificates issued by K.B.B. Municipal Corporation Hospital, Kurla (W), on 19th October, 2023 and 6th April, 2024 appear to be distinct in material particulars. In any event, the investigation is complete and charge-sheet has been lodged.

7. Having regard to the nature of the occurrence and the injury suffered by the first informant and the period of incarceration, further detention of the applicant does not seem warranted. So far as the antecedents of the applicant, the learned Counsel for the applicant submitted that the applicant has been acquitted in few of the crimes arrayed against the applicant. Nonetheless, the apprehension on the part of the prosecution can be taken care of by imposing conditions.

8. Hence the following order:

: O R D E R :

- (i) Application stands allowed.
- (ii) The applicant be released on bail in CR No.296 of 2023 registered with Vinoba Bhave Marg Police Station, Mumbai, on furnishing a P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (iii) The applicant shall mark his presence at Vinoba Bhave Marg Police Station on the first Monday of every alternate month between 10.00 a.m. to 12.00 noon for the period of two years or till conclusion of the trial, whichever is earlier.
- (iv) The applicant shall not enter the limits of Vinoba Bhave Nagar Police Station, Mumbai, for the period of two years or till conclusion of the trial, whichever is earlier.
- (v) The applicant shall not tamper with the prosecution evidence. 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.

- (vi) 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.
- (vii) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (viii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application stands disposed.

[N. J. JAMADAR, J.]