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

BAIL APPLICATION NO.155 OF 2024

ABHISHEK BABURAO GAUD

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Aniket Nikam a/w Adv. Amit Icham for the applicant.
Smt. Sangeeta D. Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : MARCH 5, 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 302, 326, 341, 120-B, 143, 147, 148 read with of the Indian Penal Code (hereafter 'IPC' for short) registered on 10.06.2023 vide FIR bearing C.R. No.121 of 2023 with Igatpuri Police Station.

3. The applicant is the accused No.7. The applicant was arrested on 22.06.2023. The co-accused – Vijay Prabhakar Bhagade with whom the applicant is seeking parity was enlarged on bail by this Court by an order dated

14.12.2023. The relevant portion of the order dated 14.12.2023 which covers the facts of the present case reads thus :-

"2. This is an application for bail in respect of the offence punishable under Sections 302, 326, 341, 120-B, 143, 147, 148, 149 read with 34 of the Indian Penal Code registered on 10/06/2023 vide C.R. No.121 of 2023 with Igatpuri Police Station, Nashik.

3. The date of the alleged incident is 08/06/2023. It is the case of the prosecution that the informant was doing business in animal transportation as a labour. He was with one friend (the deceased) and one more acquaintance transporting animals. When they reached Village- Vihigaon at about 09.00 p.m., they stopped to drink water. At that time three four-wheeler cars along with 7 to 8 motorcycles with around 13 accused persons came there and made enquiries about cattle being transported. It is alleged that the informant and the victim were assaulted with a wooden log. Thereafter, the victim was taken by the accused to the police station. The applicant who is accused No.3, is one of the persons who took the victim to the police station. On the basis of the CCTV footage recorded at the police station and the identification parade, the applicant was identified as one of the accused.

4. Learned APP opposed the application and submitted that the offence is serious and one person had died in the assault and the other victim was seriously injured. It is submitted that the applicant has been identified and therefore, this application should be rejected.

5. So far as the applicant is concerned, there is nothing on record to indicate his role in the actual assault. There is no recovery at the instance of the applicant. The applicant was one who took the complainant to the police station. There are no criminal antecedents reported to his discredit. The applicant was arrested on 11/06/2023 and is in custody for more than 6 months as an undertrial. The trial is likely to take a long time to conclude. The investigation is complete and the charge sheet is filed. Though the application is opposed, I am inclined to enlarge the

applicant on bail in the facts and circumstances of the present case.”

4. The application is opposed by learned APP. It is submitted that the offence is serious.

5. Though learned APP opposed the application for bail I am inclined to enlarge the applicant on bail on the ground of parity with co-accused - Vijay Prabhakar Bhagade who has been enlarged on bail. There is no recovery from the present applicant. The applicant has been identified in the test identification parade. The applicant was seen in the CCTV footage of the police station. No specific role has been attributed to the applicant. The investigation is complete and the charge-sheet has been filed. The applicant is not a flight risk. The applicant is in custody for almost nine months. The trial is not likely to conclude soon. There are no criminal antecedents reported against the applicant. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant-Abhishek Baburao Gaud in connection with C.R. No.121 of 2023 registered with

Igatpuri 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 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 attend the Investigating Officer of Igatpuri Police Station once in a month, first Monday of every month, between 11.00 a.m. and 1.00 p.m.

(e) 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.

(f) 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.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) The applicant shall surrender his passport to the investigating officer. If the applicant does not have a passport, the applicant shall file an affidavit before the trial Court to that effect.

6. The application is disposed of.

(M. S. KARNIK, J.)