

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

CRIMINAL BAIL APPLICATION NO.295 OF 2024

Aniket Pradeep More

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Mr. Vinod Kashid a/w Sumit Bhoite, Advocate for Applicant.
- Smt. M. H. Mhatre, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 25th JANUARY, 2024

P.C. :

1. This is the fourth time that the Applicant has approached this Court for his release on bail in connection with C.R.No.I-206/2017, dated 29/10/2017, registered with Wagle Estate Police Station, Thane, under sections 302, 307, 143, 147 148, 149 of the Indian Penal Code and under section 25 (1) of the Arms Act and under section 37 (1) r/w 135 of the Maharashtra Police Act. At the first instance the Applicant had preferred the Criminal Bail Application No.32 of 2021. After

arguments, the application was withdrawn as the Court was not inclined to grant the relief. That order was passed on 04/01/2022. Thereafter again, Criminal Bail Application No.1831 of 2022 was preferred by the Applicant. This Court vide the order dated 19/04/2023 recorded that the Applicant had prayed for withdrawal of that application, but a request was made for making the trial time bound. Accordingly, the Trial Court was directed to conclude the trial within a period of 9 months from 19/04/2023. Before the 9 months were over, the Applicant again made an application vide Criminal Bail Application No.3528 of 2023. This Court vide the order dated 06/11/2023 observed that 9 months were not over from the earlier order and liberty was given to the Applicant to file fresh application after a period of 9 months was over from the earlier order. Now, after 9 months, the Applicant has preferred this application. In these circumstances, considering that the Applicant is in custody since 01/11/2017 and also considering the liberty granted to him, I am entertaining this application.

2. Heard Mr. Vinod Kashid, learned counsel for the Applicant and Smt. M. H. Mhatre, learned APP for the State.
3. The incident had taken place on 28/10/2017. One Prashant Sonawane was gaining popularity in his area. He was given good position by a political party. Therefore, the group of the accused was getting jealous and developed enmity with him. They had also threatened Prashant on two occasions. On the date of incident about 8 accused including the present Applicant encircled Prashant. They were carrying weapons like heavy still rods, sword etc. All of them assaulted Prashant causing his death. The FIR was lodged by one Pramod Vishwakarma on 29/10/2017 at about 05.20 a.m. The incident had taken place in the midnight between 28/10/2017 to 29/10/2017. The investigation was carried out. The post-mortem notes show that the deceased had suffered 18 injuries including the skull fracture. This assault was brutal. There are many eyewitnesses to the incident who have actually named the assailants including the present Applicant. They are Shobha

Sonawane i.e. the mother of the deceased, Vicky More, Chinmay Shinde, Ganesh Jadhav, Umesh Sakilkar. There are other eyewitnesses who had not named the assailant, but who had identified them in the test identification parade. They are Ashish Athavale, Aniket Parte etc. Thus, there is strong evidence against the Applicant in the charge-sheet. However, the unfortunate part is that the Applicant was arrested on 01/11/2017 and till today the trial has not progressed beyond framing of the charge. The charges were only recently framed on 08/01/2024. There is absolutely no excuse from the prosecuting agency as to why no immediate steps were taken to commence and conclude the trial.

4. Learned counsel for the Applicant argued only on the ground of long incarceration. He could not submit any submission on the merit of the matter. His only serious submission is that since 01/11/2017 the Applicant is in jail without being tried. He relied on certain orders, whereby the other co-accused who were similarly placed, were granted bail,

by different benches. Raj Parab was granted bail vide order dated 12/09/2023. Akshay Khatale was granted bail vide order dated 13/12/2023. Aashish Gurav was granted bail by the Hon'ble Supreme Court vide the order dated 11/01/2023. All these orders are passed on the ground of long incarceration. Therefore, the Applicant also deserves the same consideration.

5. Learned APP tried to make submissions on merits of the matter. However, she could not justify the long pendency of the trial without any progress.
6. Considering this situation, the Applicant will have to be released on bail.
7. Hence, the following order :

ORDER

- (i) In connection with C.R.No.I-206/2017, dated 29/10/2017, registered with Wagle Estate Police Station, Thane, the Applicant is directed to be

released on bail on his furnishing PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two sureties in the like amount.

- (ii) The Applicant shall report to the concerned Police Station every fortnight till conclusion of the trial.
- (iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)