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

BAIL APPLICATION NO. 417 OF 2024

Jivan Ramesh Jadhav

Applicant

.. (Orig. Accused No.8)

Versus

The State of Maharashtra

.. Respondent

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- Mr. Ramprasad V. Gupta a/w. Mr. Kailash N. Baug i/by Mr. Akshay S. Kalviya for the Applicant.
 - Mr. A.S. Shalgaonkar, APP for Respondent – State.
 - PSI P.B. Todase, Bhiwandi Police Station present.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 15, 2024.

P.C.:

- 1.** Heard Mr. Gupta, learned Advocate for Applicant and Mr. Shalgaonkar, learned APP for Respondent – State.
- 2.** The present Bail Application No.417 of 2024 is filed by Jivan Ramesh Jadhav i.e. accused No.8 out of 11 accused in C.R. No.428 of 2022 registered with Bhiwandi Taluka Police Station under Sections 398, 393 read with 34 of the Indian Penal Code, 1860 alongwith Sections 3 and 25 of the Arms Act, 1959.
- 3.** Date of incident is 06.08.2022. First informant one Mr. Samtonsh Ramsundhar Paal filed a complaint of his truck having been intercepted on the Bhiwandi – Vasai highway by another truck bearing

No. MH-06-K-5295 wherein four unknown persons, after inception picked up a quarrel with him and entered his driver's cabin and during the violence and skirmish which took place, one of the four interceptors fired a bullet from a weapon which he was carrying, in the informant's knee. Because of the commotion, a passing rickshaw stopped in front of the two trucks and bypassers also gathered on the highway, due to which the interceptors fled the scene of crime. The first informant was moved to a local hospital and on the following day, he registered the complaint i.e. C.R. No.428 of 2022. Perusal of the facts stated in the complaint reveal that according to the first informant there were 4 persons who were present in the truck which had intercepted his truck who were identified by him by the clothes they were wearing and the person who fired at him was identified by his physical appearance also. But when investigation was carried out and final charge sheet was filed on 19.10.2022, 11 accused were indicted and apprehended. The accused present before me is accused No.8 – Jivan Ramesh Jadhav.

4. At the outset, Mr. Gupta has drawn my attention to the charge sheet dated 19.10.2022 and would submit that as stated therein the Investigating Officer has indicted the role of 2 persons namely, accused No.8 and accused No.9 being instrumental in stealing the truck from the limits of Mahad Police Station and using the same in the alleged incident. He would draw my attention to the fact that the only

indictment in so far as accused No.8 is concerned, is with respect to pointing out the fact that 11 accused have been alleged to have been sitting in the said truck which intercepted the informant's truck and all with the sole intention of robbing the material i.e. 8.5 ton copper wire scrap from the first informant's truck. What is intriguing is to note that the first informant has stated in his complaint that there were 4 persons only and the crime was lodged against 4 unknown persons and therefore there is a clear dichotomy, when the charge sheet states that there were 11 persons sitting in the truck which had intercepted the first informant's truck. The role of accused No.8 is not spelt out at all, neither the learned Prosecutor is able to show any role attributable to the accused No.8.

5. I have perused the First Information Report (FIR) which is at page No.75 of the Application. FIR descriptively describes the 4 unknown persons on the basis of the clothes that they were wearing. The FIR states that the 4 persons forcibly attempted to rob the copper wire scrap which the first informant was carrying in his truck after intercepting him. No Test Identification Parade (TIP) has been carried out for identifying the accused.

6. Mr. Gupta, learned Advocate in support of accused No.8's case placed on record 2 sets of orders in respect of Bail Applications having been allowed for the other accused. The first set of orders are

with respect to enlargement on bail of accused No.4 and accused No.7. By virtue of two separate orders, both dated 10.08.2023, both the co-accused i.e. accused No.4 and accused No.7 have been enlarged on bail by the learned Trial Court. While doing so, the learned Trial Court has after perusing the statements of all witnesses, charge sheet, investigation papers leading to filing of the charge sheet has opined and *prima facie* concluded that there is no material available against the said accused No.4 and accused No.7. By observing that there is a possibility of the trial being delayed, the learned Trial Court has also relied upon the order passed while releasing the accused No.1 on bail which is dated 04.01.2023. Incidentally that order dated 04.01.2023 is not before me. However paragraph No.6 of that order has been extracted in the order dated 10.08.2023 and it has been observed that as per the say of the prosecution, test identification parade has not been conducted to identify the accused who were involved in the incident. This is despite the fact mentioned by the first informant in his FIR that he would be in a possession to identify the 4 persons who were involved at the scene of crime. What is significant to note is the fact that role of accused to connect them to the incident is not ascertained at all. In so far as accused No.8 is concerned, after perusing the FIR and the charge sheet, I am of the clear opinion that his case is at par with the case of the accused Nos.4 and 7 and therefore on parity he deserves to be enlarged on bail.

7. Next set of orders are 3 orders passed by the learned Trial Court dated 20.10.2023 in respect of enlargement on bail of accused Nos.2, 3 and 11 in the same crime. Both these orders also take into cognizance the order dated 04.01.2023 passed by the learned Trial Court in respect of accused No.1 as also the previous order dated 10.08.2023 and accused Nos.2, 3 and 11 are also enlarged on bail.

8. The role of accused No.8 is no different than the aforementioned accused. Perusal of the pleadings and more specifically the charge sheet also exemplify the same. In that view of the matter, accused No.8 deserves parity, as also deserves to be enlarged on bail. Hence, the following order:-

- (i) Bail Application No.417 of 2024 filed by Jivan Ramesh Jadhav i.e. accused No.8 stands allowed;
- (ii) Applicant is directed to be released on bail of surety and/or personal bond of Rs.30,000/-; and
- (iii) Applicant is directed to submit photo copies of his Aadhar card, permanent residential address proof and first page of bank passbook or online bank account extract.

9. With the above directions, Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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