

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

CRIMINAL BAIL APPLICATION NO. 520 OF 2024

Najir Amir Shikalgar

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Ali Kaashif Khan Deshmukh i/b Hitanshi Gajaria, Snigdha Khandelwal, for the applicant.

Smt. M.H. Mhatre, APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.

DATE :21st MARCH, 2024

P.C. :

1. The applicant is seeking his release on bail in connection with C.R.No. 657 of 2023 registered at Dehu Road Police Station, Pimpri-Chinchwad, on 08/12/2023, under sections 304(II), 285, 286, 337, 338 of the Indian Penal Code and under Section 5 and 9B of the Explosive Substance Act, 1884

2. Heard Mr.Ali Kaashif Khan Deshmukh, learned counsel for the applicant and Smt. M.H. Mhatre, learned APP for the State.

3. The FIR is lodged by Fire Officer, Balasaheb Vaidya,

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working with Fire Brigade at Talwade, Pimpri-Chinchwad. He has stated that on 08/12/2023, he received a call that there was a fire in a Company at Jyotibaba Nagar, Talwade. Eight tankers of the fire brigade went to the spot. The fire brigade tried to extinguish the fire. Many workers in the Company had suffered severe burn injuries. On inquiry, the informant came to know that there used to be 15 to 20 workers working in that company. The injured were taken to the hospital and then the FIR is lodged.

4. The prosecution case is that this fire had taken place in the unit of M/s. Shivraj Enterprises owned by the accused Shubhangi Sutar and Sharad Sutar. The work of making sparkling candles was going on in that unit. One Sagar Bhakkad was the supplier of those explosives needed for the said manufacturing of candles. An accident took place in that unit, resulting in spread of fire. In the incident, 14 employees died due to severe burn injuries and few others were injured. The prosecution case is that the Applicant along with his wife was the landlord of the property, where the unit was being operated. It was given to M/s Shivraj

Enterprises on leave and licence basis.

5. Learned counsel for the Applicant submitted that the property was not owned by the applicant but it stood in the name of his wife. She had entered into a leave and licence agreement with the proprietor of M/s. Shivraj Enterprises. The Applicant's wife had executed that leave and licence as the proprietor of M/s. Shikalgar Engineering and Fabricators whereas the licensee was M/s. Shivraj Enterprises. The leave and licence was for a period of 36 months i.e. for the period between 06/06/2023 to 05/06/2026. The incident took place on 18/12/2023 at around 2.00 p.m. But the leave and licence agreement itself mentioned that the licensee was not to carry out any dangerous or illegal business in those premises. The licence fee was fixed at Rs. 21,000/- per month. Learned counsel for the Applicant submitted that the Applicant himself was neither the land owner nor was the person who had executed leave and licence agreement. He is in custody since 09/12/2023. He is 71 year old and is suffering from health issues. He is suffering from benign prostatic hypertrophy and is under

medical treatment.

6. Learned APP submitted that there are statements of the employees of that unit mentioning that the Applicant used to visit that place as landlord of that property. To that extent he is connected with the incident and, therefore, he had knowledge that the explosive substances without sufficient safety measures were being used in those premises.

7. I have considered these submissions. As submitted by learned APP, there are statements of some of the employees viz. Raju Nisar, Rajkumar Nisar, Ramadhari Nisar etc., who have stated that the Applicant and his wife used to visit that unit frequently. Apart from that, there is no connection of the present Applicant in particular, with the incident. The unit was being conducted and operated by the proprietor of Shivraj Enterprises. The explosive substances were supplied by Sagar Bhakkad. Admittedly this unit and manufacturing activities did not belong to the present Applicant. Even the leave and licence agreement is not

executed by him and he was not the owner of the property. Considering these facts, though the incident is very unfortunate in which 14 innocent people have lost their lives; the Applicant who is 71 years of age, need not be kept behind the bars pending the trial when the trial is likely to take very long time to commence. The Applicant does not have any criminal antecedent. He is not likely to abscond. It is sufficient if his presence is secured for the purpose of the trial. In this background, I am inclined to grant bail to the present Applicant on certain conditions. Hence the following order.

ORDER

- (i) In connection with C.R.No. 657 of 2023 registered at Dehu Road Police Station, Pimpri-Chinchwad, the Applicant is directed to be released on bail on his executing P.R. bond in the sum of Rs.1,00,000/- (Rupees One lakh Only) with one or two sureties in the like amount.
- (ii) The Applicant shall deposit his passport, if any, with the Investigating Officer before being released on bail.
- (iii) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)