



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

BAIL APPLICATION NO. 1049 OF 2024

NILESH @ GOTYA VASANT TANDEL ..APPLICANT

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Sanjeev Kadam a/w Adv. Suhail Shariff, Adv. Manpreet Kaur, Adv. Neha B. and Adv. Samar Pal i/b Falcon Legal for the Applicant.

Mr. S.A. Karmakar, APP for the State.

PSI C.D. Dalvi, Kasturba Marg Police Station.

CORAM : M. S. KARNIK, J.

DATE : MARCH 21, 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, 307, 323, 212, 504, 506 read with 34 of the Indian Penal Code and Sections 4 and 25 of the Arms Act registered on 26/01/2018 vide C.R. No.62 of 2018 with Kasturba Marg Police Station.
- 3.** Learned APP opposed the application and submitted that the accusations are very serious in nature. Learned APP

submitted that there are eyewitnesses to the incident and the applicant has played an active role in assaulting the deceased with a chopper.

4. This is the second bail application. The first Bail Application No. 55 of 2022 was withdrawn vide order dated 07/02/2023 with liberty to apply after some time considering that the applicant had then already undergone custody as an undertrial prisoner for more than five years. The date and time of the incident is 25/01/2018 at about 23.15 hours. From the statement of an eyewitness, it appears that the applicant expressed an apprehension that the deceased had come to the applicant's area with an intention to cause harm to the applicant.

5. It is submitted by learned counsel for the applicant that except for framing of charge, the trial has not progressed. The prosecution intends to examine around 34 witnesses. The trial is unlikely to conclude any time soon. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk. Though the accusations are serious in nature, only on the ground of long

incarceration in the facts and circumstances of the present case, with no likelihood of trial concluding any time soon, I am inclined to enlarge the applicant on bail, however, I propose to impose stringent conditions. The applicant is now in custody as an undertrial for more than 6 years. The applicant does not appear to be a flight risk. There is no progress in the trial even after the withdrawal of the first bail application. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Nilesh @ Gotya Vasant Tandel in connection with C.R. No.62 of 2018 registered with Kasturba Marg Police Station shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more local sureties in the like amount.
- (c) Except for attending the trial, the applicant shall not enter Mumbai/Mumbai Suburban district after being released on bail, till the trial concludes.
- (d) While residing outside Mumbai/Mumbai Suburban district, the applicant shall report to the Police Station, nearest to his residence, twice a month, i.e. on first and third Sunday 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, while residing outside Mumbai/Mumbai Suburban district, 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.

6. The application is disposed of.

(M. S. KARNIK, J.)