

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

BAIL APPLICATION NO. 1099 OF 2024

Keshav Balu Bhange

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Vikas Kolekar a/w. Ms. Monica Dushmikar & Mr. Sanchit Chavan,
Advocates, for the Applicant.

Ms. S. S. Kaushik, APP, for the Respondent – State.

Mr. Lingaram Sopan Devkotte, PSI and Mr. V. J. Patil, H.C. B.No.4461,
Crime Branch, Unit III, Navi Mumbai, present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 09.05.2024

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1. Heard Mr. Kolekar, learned Counsel for the Applicant and Ms. Kaushik, learned APP for the Respondent-State.

2. At the outset, Ms. Kaushik, learned APP tenders affidavit-in-reply.

3. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973* ("CrPC"). The relevant details are as follows:

1.	C. R. No.	204 of 2023
2.	Date of registration of F.I.R.	23.06.2023
3.	Name of Police Station	NRI Coastal
4.	Sections invoked	307, 326, 323, 120B, 109, 114 r/w. 34 of the I.P.C., 1860
5.	Date of incident	23.06.2023
6.	Date of arrest	20.11.2023
7.	Date of filing of Charge-sheet	08.02.2024

4. The prosecution case as set out in the affidavit-in-reply is as follows:

On 23.06.2023 at about 20:00 hrs., the complainant-Amar Keshrinath Mhatre closed his office and was proceeding towards his vehicle and he was accompanied by Vitesh Mhatre and Ashwin Naik. At that time, three unknown persons arrived there on a white two-wheeler. One unknown person was already present on the spot. These four persons approached the complainant and started assaulting him with an iron rod and a bamboo stick. Vitesh and Ashwin tried to rescue and shield the complainant when one person assaulted the complainant with a weapon called *Gupti*. Vitesh Mhatre sustained an injury on his left hand. Thereafter the Complainant lodged an F.I.R. regarding the aforesaid offence on 24.06.2023.

5. The role attributed to the present Applicant is that he had provided the contact number of the Accused who actually committed the offence in question and that he was in constant contact with them.

6. It is the contention of Mr. Kolekar, learned Counsel for the Applicant that there are in all eight Accused. Except the present Applicant, all other Accused have been released on bail. He submitted that the main ground on which the learned Sessions Judge had rejected the Bail Application is that there are antecedents and that the Applicant is the main conspirator. However, he submitted that as

far as the antecedents are concerned, in one antecedent being C. R. No.I-196 of 2015 registered with the Nerul Police Station, the Applicant has been granted bail by invoking Section 167 of the CrPC. As far as another antecedent, being C. R. No.267 of 2015 registered with the Dahisar Police Station (transferred to the DCB, CID vide C. R. No.67 of 2015), he pointed out the Judgment of the learned Special Judge, MCOC, City Civil and Sessions Court, Greater Bombay dated 28.12.2021 in Spl. Case No.20 of 2015 and submitted that although he has been convicted for the offence punishable under Sections 3 and 25 of the *Arms Act, 1959* and he has been sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.5,000/-, the Applicant has been acquitted for the offences punishable under Sections 3(1)(2) and 3(4) of the *Maharashtra Control of Organised Crime Act, 1999* ("MCOC Act"). He also relied on the decision of the Supreme Court in the case of *Prabhakar Tewari v. State of U.P.*¹. He submitted that merely there are antecedents, the Bail Application need not be rejected. He therefore prayed that the Bail Application be allowed.

7. Ms. Kaushik, learned APP relied on the affidavit-in-reply dated 08.05.2024 of Mr. Lingaram Sopan Devkatte, Police Sub-Inspector, Crime Branch Unit III, Navi Mumbai. She submitted that the Applicant has a major role in the offence in question. She submitted that there are two antecedents. She therefore submitted that the Bail

¹ (2020) 11 SCC 648

Application be rejected.

8. A perusal of the record shows that the incident in question has taken place on 23.06.2023. The F.I.R. was lodged on 23.06.2023. The Applicant surrendered before the learned Magistrate on 16.11.2023. The Charge-sheet was filed on 08.12.2023. Thus, investigation is complete. As per the Charge-sheet, there are 34 witnesses proposed to be examined by the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

9. There are in all eight Accused. Except the present Applicant, all other Accused have been released on bail. As far as the present Applicant is concerned, he is alleged to have suggested the name of the Accused who can actually carry out the offence in question and that he was in continuous contact with the Accused. Investigation is complete and Charge-sheet has been filed. However, it is clear that the present Applicant has not actually participated in the offence and that his role is that of conspirator.

10. Although there are two antecedents, in one antecedent, the Applicant has been granted bail. In another case, although the offence was punishable under the provisions of the MCOC Act, the conviction was only in respect of the offence punishable under Section 3 and 25 of the *Arms Act, 1959*.

11. Mr. Kolekar, learned Counsel for the Applicant submitted that the Applicant is suffering from medical conditions as his one kidney is damaged.

12. The Applicant does not have any criminal antecedents.
13. The Applicant does not appear to be at risk of flight.
14. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
15. In view thereof, the following order:

ORDER

(a) The Applicant - Keshav Balu Bhangbe released on bail in connection with C. R. No.204 of 2023 registered with the NRI Coastal Police Station on his furnishing P. R. Bond of Rs.50,000/- with one or two local solvent sureties in the like amount.

(b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(c) The Applicant shall report to the NRI Coastal Police Station once a week i. e. on every Sunday between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(d) 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 such a person from disclosing the facts to the Court or to any Police personnel.

(e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

(f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

16. The Bail Application is disposed of accordingly.

17. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this order.

[MADHAV J. JAMDAR, J.]