

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1876 OF 2024

Rakesh Kailas Shelar	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Akshay Bankapur, Advocate, for the Applicant.
 Mr. P. P. Deokar, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 30th APRIL 2024

PC:-

1. Heard Mr. Bankapur, learned Counsel for the Applicant and Mr. Deokar, learned APP for the Respondent-State.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C. R. No.	516 of 2023
2.	Date of registration of F.I.R.	18/08/2023
3.	Name of Police Station	Ambad, District-Nashik
4.	Section/s invoked	302, 212, 120B, 504 and 506 of the Indian Penal Code (IPC), 1860

5.	Date of incident	17/08/2023
6.	Date of arrest	18/08/2023
7.	Date of filing of Charge-sheet	03/11/2023

3. There are total 5 Accused persons. The Applicant is Accused No.4. As per the prosecution case, actual assault on the deceased due to some previous enmity was by Accused No.1-Anna Kaduskar and by Accused No.2-Mukesh Magar. At that time, Accused No.3-Ravi Aher helped both the Accused and in fact, there was conspiracy by these 3 Accused to commit the offence and assaulted the deceased-Mayur Date and he succumbed to the resultant injuries. As far as role of present Applicant is concerned, after offence was committed by Accused Nos.1 to 3 when the deceased was killed thereafter the present Applicant has harboured these Accused persons.

4. It is the contention of Mr. Bankapur, learned Counsel for the Applicant that even as per the prosecution case, the Applicant was not involved in the offence punishable under Section 302 of the IPC, 1860. He submitted that the only allegation against the Applicant is that he has harboured the offender. He submitted that

therefore, the offence which can be alleged against the present Applicant is under Section 212 of the IPC i.e. harbouring the offender. He submitted that maximum punishment is imprisonment for 5 years. He submitted that the Applicant is incarcerated since 18th August 2023 i.e. almost for 8 months. He submitted that offence under Section 212 of IPC is bailable and therefore, Bail Application be allowed. He submitted that Accused No.5 has been granted bail by Order dated 15th December 2023 passed by a learned Single Judge in Bail Application No.3964 of 2023. He submitted that in fact, the role of the Accused No.5 is more graver since he was in contact with Accused even before the commission of the offence. He therefore submitted that the Applicant be granted bail. He also submitted that there are no criminal antecedents against the Applicant.

5. On the other hand, Mr. Deokar learned APP for the Respondent-State strongly opposed the Bail Application. He submitted that the Applicant is involved in serious offence of Section 302 of IPC. He submitted that although the allegation against the Applicant is harbouring of the offender, however, since the main offence is punishable with death maximum punishment is

5 years. He therefore, submitted that the Bail Application be rejected. However, on instructions, he states that there are no criminal antecedents.

6. Perusal of the record shows that in the present case, the incident in question occurred on 17th August 2023, F.I.R. was lodged on 18th August 2023, the Applicant was arrested on 18th August 2023 and, Charge-sheet was filed on 3rd November 2023. There is no progress in the trial. As per the Charge-sheet, there are 39 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.

7. There are no criminal antecedents against the present Applicant.

8. The Applicant does not appear to be at risk of flight.

9. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

10. In view thereof, the following order:-

ORDER

- (a) The Applicant – Rakesh Kailas Shelar be released on bail in connection with C.R. No.516 of 2023 registered with the Ambad Police Station, District - Nashik on his furnishing P.R. Bond of Rs.25,000/- with one or two 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 Ambad Police Station, District - Nashik once in a 15 days i.e. on the 1st Sunday and 3rd Sunday of every month 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.

11. The Bail Application is disposed of accordingly.

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

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[MADHAV J. JAMDAR, J.]