

Sayali Upasani

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

BAIL APPLICATION NO. 1755 OF 2023

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Shahrukh Badshah Shaikh ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. R. G. Gadgil with Swapnesh Salvi, U. Tambawala, for
Applicant.

Mr. S. R. Agarkar, APP for State/Respondent.

Mr. Guruprasad Datale, PSI, Bandra Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 11th JANUARY, 2024.

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) This application is preferred for bail in connection with CR No. 576 of 2021, registered with Bandra Police Station, Mumbai, for the offences punishable under Sections 399 and 402 of the Indian Penal Code, 1860 and Section 4 read with Section 25 of the Arms Act, 1959 and Section 37 (1) read with Section 135 of the Maharashtra Police Act, 1951.
- 3) I have perused the report under Section 173 of the Criminal Procedure Code, 1973 and the documents annexed with

it. Panchanama dated 22nd October, 2021, records that the applicant and the co-accused were found in suspicious circumstances at Visarjan Point, Bandra Bandstand, Mumbai. The co-accused lady was carrying a bag, which contained arms. In the personal search of the applicant allegedly a Chopper and documents were found.

4) The applicant has been in custody since 22nd October, 2021. Prima facie, the material on record renders the applicability of the provisions contained in Sections 399 and 402 of the Penal Code, 1860, debatable.

5) Having regard to the period of incarceration and the nature of the accusation, I am inclined to exercise the discretion in favour of the applicant.

6) Hence, the following order:

: O R D E R :

(i) The application stands allowed.

(ii) The applicant Shahrukh Badshah Shaikh be released on bail in CR No. 576 of 2021, registered with Bandra Police Station, Mumbai, for the offences punishable under Sections 399 and 402 of the Indian Penal Code, 1860 and Section 4 read

with Section 25 of the Arms Act, 1959 and Section 37 (1) read with Section 135 of the Maharashtra Police Act, 1951, on furnishing a P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount, to the satisfaction of the learned Sessions Judge.

(iii) The applicant shall mark his presence at the concerned Police Station on the first Monday of every month between 10.00 am to 12.00 noon for a period of two years or till conclusion of trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

(v) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial court shall

not be influenced by any of observations made hereinabove.

[N. J. JAMADAR, J.]