



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

BAIL APPLICATION NO. 1722 OF 2023

ROHIT SHANKAR CHAUDHARI ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Aniket Nikam i/b Adv. Amit Icham for the Applicant.
Ms. Megha S. Bajoria, APP for the State.
V.K. Babar, Kondhwa 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 307, 326, 324, 323, 141, 143, 144, 147, 149 and 120-B of the Indian Penal Code, Sections 3(1)(i), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 read with Sections 4 and 25 of the Arms Act and Section 7 of Criminal Law Amendment Act read with Sections 37(1) and 135 of the Maharashtra Police Act, registered on 16/09/2021 vide C.R. No.802 of 2021 with

Kondhwa Police Station, Pune.

3. There are in all 11 accused. The applicant is accused No.4. The applicant was arrested on 18/09/2021. Learned counsel for the applicant invited my attention to the order dated 14/03/2024 passed in Bail Application No.2122 of 2023, in respect of the co-accused No.11 Rutik @ Bapu S. Sasane who has been enlarged on bail by this Court. It is submitted that the role of the present applicant is much lesser compared to that of the co-accused Rutik @ Bapu S. Sasane. There is no recovery at the instance of the present applicant. There is a general allegation that the applicant was part of the group that assaulted the deceased.

4. Paragraph No.5 of the order dated 14/03/2024, enlarging the co-accused- Rutik on bail is relevant. The same reads thus:

"5. Perusal of the statements of eye-witnesses reveals that the applicant was in the company of the other accused. The role assigned to the applicant is that the applicant was armed with a steel rod. The other co-accused are the actual assailants. When the deceased and the complainant tried to flee in the autorikshaw, the present applicant pulled the complainant. It is alleged that he hit the autorikshaw with the steel pipe. Considering the role of the applicant, also considering that the applicant was 22 years of age at the relevant time, I am inclined to enlarge the applicant on bail. No

doubt, there is one offence in common the applicant has with the gang-leader vide C.R. 994 of 2020. Perusal of the order enlarging the applicant on bail dated 01/03/2021 in the said case reveals that the trial Court has observed that name of the applicant is not prima facie mentioned nor the exact role of the applicant is mentioned in the FIR. There was no recovery of any weapon from the present applicant in that offence."

5. Learned APP opposed the application and invited my attention to the affidavit in reply filed on behalf of the prosecution. It is submitted that the applicant has participated in the assault and he was present with the other accused when the incident took place. It is further submitted that there are Call Detail Records (CDRs) of the applicant which indicate that the applicant was in touch with the co-accused. There are also statements of eyewitnesses who stated about the presence of the applicant at the time of the incident.

6. The applicant is in custody for 2 years and 6 months as an undertrial with no possibility of trial concluding any time soon. The investigation is complete and the charge-sheet has been filed. Co-accused with a greater role has been enlarged on bail. In the facts and circumstances of the present case, in my opinion, the bar under Section 21(4) of the MCOCA can be

overcome. There are no criminal antecedents reported against the applicant. Considering that the applicant has no specific role in the assault, I am inclined to enlarge the applicant on bail. In view of the conditions that I propose to impose, it is unlikely that the applicant will commit any offence during the pendency of the trial. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Rohit Shankar Chaudhari in connection with C.R. No. 802 of 2021 registered with Kondhwa Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) Except for the purpose of report to the Investigating Officer, the applicant shall not enter the jurisdiction of Kondhwa Police Station, after being released on bail, till the trial concludes.
- (d) The applicant shall attend the Investigating Officer of Kondhwa police station once in a month, first Monday 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 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.

7. The application is disposed of.

(M. S. KARNIK, J.)