

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2079 OF 2023

Shrikant Guruling Koli	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

WITH
INTERIM APPLICATION (ST) NO.2761 OF 2024
IN
BAIL APPLICATION NO.2079 OF 2023

Sachin Anil Patangrao	...Applicant
-----------------------	--------------

IN THE MATTER BETWEEN

Shrikant Guruling Koli	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Rushikesh Kale, for the Applicant.

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

Mr. Kanhaiya S. Yadav, for the Intervenor in IA(St)/2761/2024.

CORAM : MADHAV J. JAMDAR, J.
DATED : FEBRUARY 05, 2024

P.C.:

1. Heard Mr. Kale, learned Counsel appearing for the Applicant, Ms. Kaushik, learned APP appearing for the Respondent-State and Mr. Yadav, learned Counsel appearing for the Intervenor.

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.	55 of 2023
2	Date of registration of F.I.R.	05/02/2023
3	Name of Police Station	M.I.D.C. Police Station, Solapur
4	Section/s invoked	302, 120-B & 201 r/w 34 of the <i>I.P.C., 1860</i>
5	Date of incident	04/02/2023
6	Date of arrest	05/02/2023
7	Date of filing Charge-sheet	13/05/2023

3. Mr. Kale, learned Counsel appearing for the Applicant submitted that the Applicant has been incarcerated since 5th February 2023. He submitted that Accused No.1, to whom a major role has been attributed in the offence in question, has been released on bail by Order dated 19th December 2023 passed by learned Single Judge [Coram: M. S. Karnik, J] in Bail Application No.4023 of 2023. He therefore, claims parity. He submitted that there are 2 witnesses from the same locality in which the Applicant and the deceased were residing. However, they have not identified the Applicant. He submitted that in the facts and circumstances, this is a fit case where the Applicant can be enlarged on bail.

4. Ms. Kaushik, learned APP and Mr. Yadav, learned Counsel appearing for the Intervenor strongly opposed the Bail Application. They submitted that there is strong evidence against

the Applicant. There is a motive for the offence and therefore the Applicant is not entitled to be released on bail. They submitted that there is an antecedent being F.I.R. No.545 of 2022 dated 03rd November 2022 lodged under Sections 324, 323, 104 & 506 r/w 34 of the *Indian Penal Code, 1860*. Learned Counsel appearing for the Applicant submitted that in the said case, the Applicant has been enlarged on bail.

5. Perusal of the record shows that the F.I.R. has been lodged on 5th February 2023 and immediately on 5th February 2023 the Applicant has been apprehended. The Charge-sheet has been filed on 13th May 2023. As per the Charge-sheet, there are a total of 30 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.

6. Learned Single Judge [Coram: M. S. Karnik, J] by Order dated 19th December 2023 passed in Bail Application No.4023 of 2023 granted bail to the Accused No.1-Mahesh Shivaji Shejerao. The relevant portion of paragraph Nos.3, 4 and 5 of the said Order is as under:

"3. The date and time of the alleged incident is 04/02/2023 at around 10.30 p.m. According to is the eyewitnesses' statement which is at page Nos. 127 and 128 of the paperbook and recorded on 08/02/2023, two persons carrying an iron rod and a sword assaulted the

victim brutally. There are in all 7 accused. The applicant is accused No.1.

4. *Learned APP while opposing the application invited my- attention to the statement of the brother of the deceased recorded under Section 164 of the Cr.P.C. on 01/03/2023. It is stated by him that from those persons present at the spot of the incident, he came to know that the present applicant along with Harshwardhan Shejerao, Shrikant Koli and other 4 to 5 unknown persons assaulted the deceased. The brother of the deceased was further informed that it is the present applicant, Harshwardhan Shejerao and Shrikant Koli who brutally assaulted the deceased. It is further submitted that there is an audio recording at page No. 110 of the paperbook. From the audio recording, it appears that the deceased was saying that he was being assaulted by goons of Shejerao.*

5. *There are eyewitnesses who do not name the applicant. There is no test identification parade conducted. Nothing has been recovered at the instance of the present applicant. The version of the applicant's brother is hearsay."*

7. Mr. Kale, learned Counsel appearing for the Applicant states that as several witnesses are residing in the same locality as that of the Applicant, the Applicant will therefore not reside within the limits of Solapur City and also shall not enter the jurisdiction of the M.I.D.C. Police Station, Solapur.

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

9. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

- (a) The Applicant-Shrikant Guruling Koli be released on bail in connection with C.R. No.55 of 2023 registered with the M.I.D.C. Police Station, District-Solapur on his furnishing P.R. Bond of Rs.25000/- with one or two solvent sureties in the like amount.
- (b) The Applicant shall not enter the Municipal limits of Solapur City and the jurisdiction of the M.I.D.C. Police Station, Solapur after being released on bail, except for reporting to the Investigating Officer, if called and for attending the trial.
- (c) On being released on bail, the Applicant shall furnish his cell phone number and residential address i.e. outside the limits of Municipal limits of Solapur City and the jurisdiction of the M.I.D.C. Police Station to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicant shall report to the nearest Police Station where he is residing i.e. outside the limits of Municipal limits of Solapur City and the jurisdiction of the M.I.D.C. Police Station once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of said Police Station to communicate details thereof to the Investigating Officer.
- (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 such a person from disclosing the facts to the Court or to any Police

personnel.

- (f) The Applicant shall not tamper with the evidence and shall not contact or influence the Complainant or any witnesses in any manner.
- (g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

10. The Bail Application is disposed of accordingly.

11. It is clarified that the observations made herein are *prima facie* and the trial Court shall decide the case on its merits and uninfluenced by the observations made in this Order.

12. In view of disposal of the Bail Application, nothing survives in the Interim Application and the same is also disposed of.

[MADHAV J. JAMDAR, J.]