



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2071 OF 2023

Sachin Kisan Shinde ...Applicant
Versus
The State of Maharashtra ...Respondent

INTERIM APPLICATION NO.388 OF 2024
IN
CRIMINAL BAIL APPLICATION NO.2071 OF 2023

Chhaya Deepak Gaikwad ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Priyal G. Sarda a/w. Mr. Shubham S. Sane, Advocates for the Applicant in B.A. No.2071/2023.
Ms. Veera Shinde, APP for the Respondent-State.
Ms. Aruna S. Pai, Advocate for the Applicant/Intervenor in I.A. No.388/2024.

CORAM: MADHAV J. JAMDAR, J.
DATED : 15th FEBRUARY 2024

PC:-

1. Heard Mr. Sarda, learned Counsel appearing for the Applicant, Ms. Shinde, learned APP appearing for the Respondent-State and Ms. Pai, 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.	80 of 2021
2.	Date of registration of F.I.R.	09/02/2021
3.	Name of Police Station	Lonikand Police Station, Pune
4.	Section/s invoked	302, 120(B), 34 of the I.P.C., 1860
5.	Date of incident	09.02.2021
6.	Date of arrest	11/02/2021
7.	Date of filing Charge-sheet	07/05/2021

3. As per the prosecution case, there was previous enmity between the group led by the Applicant and the group led by the deceased. At the relevant time, the deceased was the Chairperson of one social organization viz. '*Rudra Shambho*' and the group belonging to the Applicant was of the opinion that the Applicant should be made Chairperson of that said organization. It appears that there is enmity between these two groups since about the year 2018.

4. Mr. Sarda, learned Counsel appearing for the Applicant submitted that there are total 13 Accused, out of which 3 are juvenile. Of the remaining 10 Accused who are arrested, 8 Accused persons have been enlarged on bail. He submitted that the Applicant is not the assailant and the role of the Applicant is that he was involved in the conspiracy to murder the deceased. He submitted that the Applicant is incarcerated since 11th February 2021 and Charge-sheet has been filed on 7th May 2021 and there is no further progress in the trial. Mr. Sarda, learned Counsel appearing for the Applicant relied on the Order dated 20th January 2023 passed by a learned Single Judge (Coram: N. R. Borkar, J.) in Bail Application No.3585 of 2022 in the case of Accused Harshad *alias* Harshal Kumar Shinde and submitted that the present Applicant has the same role as that of the Applicant therein and therefore parity is applicable. He also submitted that there are no criminal antecedents against the present Applicant.

5. On the other hand, Ms. Shinde, learned APP appearing for the Respondent-State and Ms. Pai, learned Counsel appearing for the Intervenor strongly opposed the Bail Application. They pointed out statement of witnesses Soham Shinde (Page 23), Chhaya

Gaikwad (Page 25), Swapnil Kand (Page 26), Nanasaheb Shinde (Page 28), Yogesh Walunj (Page 31) and Kiran Shinde (Page 32) and submitted that apart from the conspiracy, the Applicant has strong motive to commit the offence. Both of them submitted that the Applicant wanted to become the Chairperson of the said social organization and therefore the deceased, who at the relevant time was the Chairperson of the said social organization, was killed. Ms. Shinde, learned APP appearing for the Respondent-State and Ms. Pai, learned Counsel appearing for the Intervenor also pointed out the *panchnama* (Page 56) which shows that the Applicant had practised the use of a firearm. Therefore, both of them submitted that the Bail Application be rejected.

6. Perusal of the record shows that the incident in question occurred on 9th February 2021, offence was registered on the same day and the Applicant was arrested on 11th February 2021. Although the Charge-sheet has been filed on 7th May 2021, there is no progress in the trial. As per the Charge-sheet there are about 21 witnesses proposed to be examined by the prosecution.

7. As far as merits are concerned, it is an admitted position that the Applicant has not actually fired at the deceased. The Applicant is the conspirator. There may be some substance in the contention of Ms. Shinde, learned APP appearing for the Respondent-State and Ms. Pai, learned Counsel appearing for the Intervenor that the Applicant is the main conspirator, however in any case, the Applicant has not actually fired at the deceased and his role may be that of the main conspirator.

8. Mr. Sarda, learned Counsel appearing for the Applicant has pointed out the Order dated 20th January 2023 passed by a learned Single Judge (Coram: N. R. Borkar, J.) in Bail Application No.3585 of 2022 in the case of Accused Harshad *alias* Harshal Kumar Shinde. He submitted that the role of the said Accused is also that of a conspirator and learned Single Judge has granted bail to the said Accused. The relevant discussion is in paragraph Nos.4 and 5 therein, which read as under:-

“4. According to the prosecution, the present applicant and other co-accused entered into the conspiracy to commit the murder of the deceased due to political rivalry / previous dispute. It is

alleged that pursuant to the said conspiracy, on 9 February 2021, the co-accused Roshan Sahu committed the murder of the deceased by shooting him dead.

5. According to the prosecution, the present applicant was one of the conspirators. The Sessions Court has released co-accused Aditya Daphal, Prathmesh Shivde, Rohit Manjule, Akash Dadgule and Manoj Salve on bail, who according to the prosecution were conspirators in the alleged crime. Considering the overall facts and circumstances of the case, I am inclined to release the applicant on bail on certain conditions.”

9. It is submitted by Ms. Shinde, learned APP appearing for the Respondent-State and Ms. Pai, learned Counsel appearing for the Intervenor that the distinguishing factor is that the main motive is that of the present Applicant, the present Applicant was present at the scene of the offence in question and that after the incident, he uttered the words “पळा रे पळा, काम झाले, पळा” (“Run all, run! Work is done, run!”) and that he had practised the use of firearms prior to the offence in question.

10. However, the record shows that the present Applicant has not actually used the weapon. The role of the Applicant is also that of a conspirator. The co-Accused-Harshad *alias* Harshal Shinde who has been released on bail by a learned Single Judge of this Court by Order dated 20th January 2023 in Bail Application No.3585 of 2022, was also present at the spot of the incident when the deceased was killed. Therefore, there is substance in the contention raised by Mr. Sarda, learned Counsel appearing for the Applicant that parity is applicable. In fact, except for the present Applicant and the Accused who has actually fired the weapon killing the deceased, all other Accused persons have been enlarged on bail. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

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

12. At this stage, Ms. Shinde, learned APP appearing for the Respondent-State submitted that if this Court is inclined to grant bail then the Applicant be directed to not enter Pune and Satara districts.

13. Mr. Sarda, learned Counsel appearing for the Applicant after taking instructions states that the Applicant will not reside within Pune and Satara districts and that the Applicant will reside at C/o. Dilip Sable, Walunj Society, Bajaj Nagar, Vadgaon Kalati, Taluka and District-Aurangabad – Maharashtra.

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

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

16. In view thereof, the following order:-

ORDER

(a) The Applicant-Sachin Kisan Shinde be released on bail in connection with C. R. No.80 of 2021 registered with the Lonikand Police Station, Taluka-Haveli, District-Pune on his furnishing P. R. Bond of Rs.50,000/- with one or two local solvent sureties in the like amount.

- (b) The Applicant shall not enter the Pune and Satara districts 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 to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicant shall report to the Waluj Police Station, District-Aurangabad twice every week, on Monday and Thursday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Waluj Police Station, District-Aurangabad 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 witness 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.

17. The Bail Application is disposed of accordingly.

18. It is clarified that the observations made herein are *prima facie* and the Trial Court shall decide the case on its own merits and uninfluenced by the observations made in this order.

19. In view of the disposal of the Bail Application, nothing survives in the Interim Application and the same is disposed of as such.

[MADHAV J. JAMDAR, J.]