



Diksha Rane

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

BAIL APPLICATION NO.2124/2023

HARSH DHARAMPAL CHAURASIYA ..APPLICANT
VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Gaurav Bhawnani for the applicant.
Mr. Swapnil V. Walve, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : APRIL 10, 2024.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail. The applicant is the accused no.3. On 12/3/2024, this Court has enlarged the co-accused- Amir Ansar Shaikh on bail. The order covers the facts of the present case which reads thus:-

“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, 34 of the Indian Penal Code (hereafter ‘IPC’ for short), under Sections 4, 25, 27 of Indian Arms Act and under Sections 37(1)(A), 135 of Maharashtra Police Act registered on 24.07.2020 vide FIR bearing C.R. No.221 of 2020 with Tilak Nagar Police Station.

3. This Court on the previous occasion on

03.01.2023 allowed the applicant to withdraw the earlier Bail Application No.1325 of 2022 with liberty to file a fresh application after six months, if the trial does not make any progress. I am informed that the charge has been framed in sometime in October 2023 but not a single witness has been examined so far. The prosecution proposes to examine 28 witnesses. The trial is unlikely to conclude any time soon.

4. Learned APP was at pains to point out the brutality of the assault by the sword on the head of the injured witness. It is submitted that injured witness has not yet recovered from one of the assault. It is further submitted that there is one criminal antecedent against the applicant of the year 2020 bearing C.R. No.43 of 2020 under Section 8(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter 'NDPS Act' for short).

5. The applicant was arrested on 24.07.2020. The applicant is now in custody for more than three years and seven months with the possibility of the trial concluding any time soon appearing to be remote. No doubt there are eye witnesses to the incident and even the weapon is recovered from the applicant. However, in the facts and circumstances of the present case I am inclined to enlarge the applicant on bail but by imposing stringent conditions. The applicant does not appear to be a flight risk.

6. Learned counsel for the applicant on instructions submits that the applicant is willing to reside outside Mumbai/Mumbai Suburban, Palghar and Thane district till the conclusion of the trial. Statement accepted."

3. Learned APP for the State submitted that the accusations are serious of the assault being brutal. I do find substance in the submission of learned APP. However, the applicant was arrested on 24/7/2020 and is in custody for more than three and half years with no possibility of the trial concluding any time soon. The investigation is complete.

The charge-sheet has been filed. Though the charges are framed, no witnesses are yet examined. In the facts and circumstances of the present case, considering that the co-accused- Amir Ansar Shaikh having a similar role has been enlarged on bail and as there are no criminal antecedents reported against the applicant, I am inclined to enlarge the applicant on bail but by imposing stringent conditions. The applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Harsh Dharampal Chaurasiya in connection with FIR bearing C.R. No.221 of 2020 registered with Tilak Nagar 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) The applicant shall report to the nearest police station close to his residence while staying outside Mumbai/Mumbai Suburban, Palghar and Thane district, once in a week i.e. every Sunday between 11.00 a.m. and 1.00 p.m. till the trial concludes.
- (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 him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) 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.

(f) Except for attending the trial in this case, the applicant shall not enter the area of Mumbai/Mumbai Suburban, Palghar and Thane district after being released on bail, till the trial concludes.

(g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(h) It is also open for the witnesses to make an appropriate application for witness protection to the competent authority/appropriate Court which application shall be considered on its own merits and in accordance with law.

(i) If it is found that the applicant has violated any of the conditions, liberty to the prosecution to apply for cancellation of this bail.

4. The application is disposed of.

(M. S. KARNIK, J.)