

Sayali Upasani

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

BAIL APPLICATION NO.- 2442 OF 2023

**SAYALI
DEEPAK
UPASANI**

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Pundlik Shankar Sabale

... Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Ashish Jagtap with Mr. B. L. Jagtap, for Applicant.

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

CORAM:- N. J. JAMADAR, J.

DATED:- 15th APRIL, 2024.

PC:-

- 1) This is a second application for Bail.
- 2) The applicant is arraigned in CR No. 392 of 2020, registered with Versova police station, for the offences punishable under Section 307 of the Indian Penal Code, 1860 and Section 135 read with Section 37 (1) of the Maharashtra Police Act, 1951, for having attempted to commit the murder of the first informant by means of a sharp weapon.

3) The first Application, being BA No. 1329 of 2021, was rejected by this Court by an order dated 7th October, 2021 (Coram- Nitin W. Sambre J.)

4) The learned Counsel for the applicant submits that the applicant has been in custody since 28th October, 2020. The charge has yet not been framed. It is extremely unlikely that the trial can be concluded within a reasonable period. Thus, on account of long incarceration, the applicant be released on bail. The learned Counsel placed reliance on an order passed by the Supreme Court in the case of **Bhausahab Nagu Dhavare Vs. State of Maharashtra and Others**¹.

5) The learned APP resisted the prayer for bail. The learned APP submits that since this Court has already rejected the application for bail, after adverting to the merits of the matter, there is no reason to take a different view of the matter.

6) The submission of learned APP so far as the merits of the matter is considered, appears impeccable. However, the fact that the applicant has been in custody since 28th October, 2020 cannot be lost sight of. More than three and half years have elapsed. It is unlikely that the trial can be concluded within a

¹ 2001 (Suppl.), ACC 961.

reasonable period. The long period of incarceration without a real prospect of expeditious conclusion of the trial, furnishes a justifiable ground to exercise discretion to release the accused on bail irrespective of the fact that a strong prima facie case has been made out against the applicant.

7) Therefore, I am impelled to release the applicant on bail subject to certain conditions.

8) Hence, the following order.

: O R D E R :

(i) The application stands allowed.

(ii) The applicant be released on bail in CR No. 392 of 2020, registered with Versova police station, for the offences punishable under Section 307 of the Indian Penal Code, 1860 and Section 135 read with Section 37 (1) 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 trial Court.

(iii) The applicant shall mark his presence at Versova Police Station Police Station on the first Monday of every alternate 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 enter the limits of Versova police station till further orders except for attending the proceedings before the Court or the police station.

(v) 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.

(vi) 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 the observations made hereinabove.

[N. J. JAMADAR, J.]